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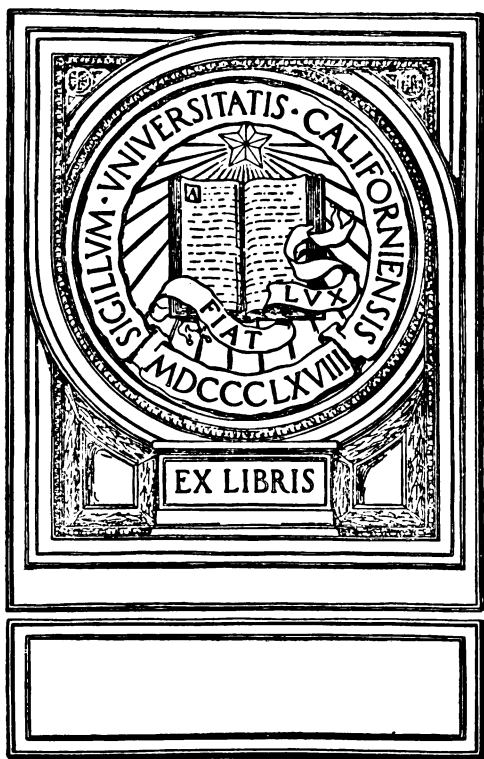
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**HISTORICAL SKETCHES**  
**OF**  
**THE UNITED STATES,**  
**FROM THE PEACE OF 1815 TO 1830.**

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**BY SAMUEL PERKINS, ESQUIRE.**

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**NEW YORK:**  
**PUBLISHED BY S. CONVERSE.**  
**1830.**

**DISTRICT OF CONNECTICUT, ss.**

**BE** it remembered, That on the fifteenth day of October, in the fifty-fifth year of the Independence of the United States of America, Samuel Perkins, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author, in the words following, to wit:

"Historical Sketches of the United States, from the peace of 1815 to 1830. By Samuel Perkins, Esquire."

In conformity to the act of the congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned;" and also to an act, entitled "An act supplementary to an act, entitled An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints."

**CHARLES A. INGERSOLL,**

Clerk of the District of Connecticut.

A true copy of record, examined and sealed by me.

**CHARLES A. INGERSOLL,**

Clerk of the District of Connecticut.

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**Sleight & Robinson, Printers, 25 William Street.**

## P R E F A C E.

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THE favorable manner in which a work, entitled "A History of the late War," has been received, has induced the writer to continue a history from the peace of 1815 to the end of the first session of the twenty-first congress, May 31st, 1830.

Its objects are to give a correct and connected account,

1st. Of the military and naval transactions, embracing the Algerine war; the measures taken to suppress piracy; and the Seminole war:

2d. Of the proceedings of congress and the executive relating to important subjects of general policy:

3d. Of judicial decisions on constitutional questions:

4th. Of diplomatic discussions:

5th. Of the affairs of Europe, and the republics of Southern America, so far as they affect their relations with this country.

In the course of the fifteen years embraced in this history, many important constitutional questions have arisen, been fully discussed, and the opinions of the several departments of government expressed on them. Though most of the subjects are familiar to the community, it is thought that a concise and connected view of the leading principles on which the government has proceeded, during this period, might be useful.

Few occasions have occurred to call into exercise American valor. Such as have, are highly honorable to the country. One object of this work is to preserve a record of them, and bring them to the recollection of the citizens. They are now to be found only in the fugitive publications of the day.

The diplomatic discussions have been highly important and honorable to the nation. Their principal object, on the part of the United States, has been, to obtain redress for injuries; on the part of other nations, to avoid or procrastinate the claims. Another object has been to place commercial intercourse on a footing of a fair and liberal reciprocity; and a third, to abolish the slave trade, and the practice of priva-

teering; the government uniformly adopting the Washington policy of avoiding all political connections. A view of these discussions, which is attempted in this work, is interesting, as it affords a knowledge of the feelings and policy of other nations towards this.

The work is not intended as an electioneering object. At the same time, it is not the wish, nor within the power of the writer, to conceal his views of the prominent measures of the several administrations within the period, or to prevent the operation which a candid view of past transactions may have on public opinion. In expressing them, however, he trusts it has always been done with a sacred regard to private character.



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*Peace establishment.* The transition of any country from war to a state of peace, is attended with many embarrassing circumstances. Those of the peace of 1815 in the United States were of a peculiar character. In European monarchies, military officers are appendages of the crown. Having once obtained a commission, the holder is an incumbent for life. If in arranging a peace establishment, his active service is not required, he retires on half pay, bound to repair to the standard of his sovereign at any future call. The armies and navies kept up in time of peace are so numerous, that their reduction to what is denominated a peace establishment at the close of a war, is attended with no serious difficulties. Not so in the United States. The genius of their government is essentially pacific. No useless corps of pensioned officers is to be retained. At the close of the war, they, with their soldiers, are to be discharged, and must resume the character of citizens, except only such numbers as a prudent re-

gard to the preservation of peace renders it expedient to retain.

The only objects for which an American army can be kept up in time of peace are, to garrison the fortresses on the sea-board with such numbers as should be necessary to preserve them from dilapidation; to establish posts on the frontiers sufficient to protect them from Indian incursions; to preserve some knowledge of the military art; and to form a nucleus around which an army may be collected in the event of a war. For these purposes a comparatively small number is necessary. The congress which were in session at the time when the treaty of peace was ratified, fixed the military establishment at ten thousand. The number of field officers then in service amounted to two hundred and sixteen; and of regimental to two thousand and fifty-five; of the former thirty-nine, and of the latter four hundred and fifty were to be retained. In making this selection the executive had a delicate and difficult task to perform. The late war had called into active service a fine corps of officers, many of whom had distinguished themselves on various interesting occasions. The exchange of a military for a civil life is seldom desired by an officer; with few exceptions, all were anxious to be retained, and the claims among a great proportion were so nearly balanced, that a designation of the requisite number must necessarily disappoint the expectations, and wound the feelings of many.

*Board of General Officers.* Generals Brown, Jackson, Gaines, Scott, Macomb, and Ripley, the first two with the rank of major general, and the last four as brigadiers, were retained in service, and ordered to repair to Washington to assist in organizing the establishment.

They were instructed to recommend such only as were competent to engage an enemy in the field. Distinguished military and approved moral character was to form the basis of their selections. Where the claims of the candidates were in these respects equal, length of service, a capacity for civil pursuits, and their pecuniary circumstances might be taken into account. Where neither direct nor collateral circumstances furnished a distinction, their decision might be governed by lot. Under these instructions the board of general officers proceeded to make the selection, and early in May, reported a list of the requisite number of officers to be retained, which was approved by the president, and occasioned much less dissatisfaction than was apprehended. In publishing the orders for disbanding the army, Mr. Dallas, the acting secretary at war, remarks, "that the president

desires it to be distinctly understood that, from the designation of the officers who are retained, nothing more is to be inferred than his approbation of the designated individuals, without derogating, in any degree, from the fame or worth of those whose lot it is to retire. The American army of the war of 1812, has hitherto successfully emulated the patriotism and valor of the army of 1776. The closing scene of the example remains to be performed; having established the independence of their country, the revolutionary warriors cheerfully returned to the walks of civil life, many of them became the benefactors and ornaments of society, in the prosecution of various arts and professions; and all of them, as well as the veteran few who survive the lapse of time, have been the objects of grateful recollection, and constant regard. It is for the American army, now dissolved, to pursue the same honorable course, in order to enjoy the same inestimable reward. The hope may be respectfully indulged, that the beneficence of the legislative authority will beam upon suffering merit. An admiring nation will unite the civil with the martial honors, which adorn its heroes, and posterity in its theme of gratitude will indiscriminately praise the protectors and the founders of American Independence."

In pursuance of this advice, most of the disbanded officers returned to their civil occupations without complaint. A number, however, who had resorted to Washington for the purpose of procuring themselves to be retained in service, attempted to call a general convention of their brethren at Harrisburgh in Pennsylvania, for the purpose of soliciting a further reward for their services from the government. Soon after the determination of the executive was known in relation to the persons to be retained, a publication appeared in the *National Intelligencer*, calling upon the disbanded officers to hold meetings in their respective districts on the 1st of September, for the purpose of appointing delegates to the proposed convention; the objects of which were stated to be,

To apply to the general government for such pecuniary emolument as would place the discharged officers of the late army on a footing with those of the revolutionary war:

To obtain pensions for the individuals of any grade and rank, who, by their services and sufferings had merited them:

To obtain from the next congress a grant of the land which had been proposed to be given them by the last:



And to endeavor to obtain an act of the government to secure to them a preference in any military corps hereafter to be raised.

These propositions were immediately answered by a publication from a disbanded officer through the same channel, in which the proposed convention is severely reprobated. The writer indignantly spurns at the idea of soliciting pensions from the government, except for those who have sustained wounds which disable them from labor.

Those who have distinguished themselves in the late war, the writer observes, have the best guaranty for commissions in any future army, and it is highly unbecoming their spirit and dignity to solicit pensions or employment from the government. This timely and well written reply put an end to those complaints, and nothing further was heard of the proposed convention.

*Military Districts.* By an order from the war department, of the 17th of May, 1815, the United States, for military purposes, were divided into two districts: the northern, comprehending all the country north of Virginia, and including the state of Ohio, and the territories of Indiana and Michigan; and the southern, comprehending all the residue. The northern was assigned to General Brown, with Brigadiers Scott and Macomb; and the southern, to Gen. Jackson, with Brigadiers Gaines and Ripley.

*Algiers.* The situation in which the United States were placed in relation to Algiers, forbade any reduction of their naval establishment. The war in defence of maritime rights had scarcely closed, before it became necessary to commence another for the protection of American commerce and seamen against Algerine piracies. The northern coast of Africa, bordering on the Mediterranean, formerly the seat of commerce and the arts, has for several centuries been occupied by a mixture of several barbarous nations, disavowing the common principles which regulate the intercourse of civilized society. Mahometans in their religion, they consider all Christians as enemies of the true faith, and deem it a meritorious act to plunder their property and enslave their persons, whenever they fall within their power. On these principles they carry on a piratical warfare against all Christian nations who do not purchase an exemption by tributary treaties. Divided into several regencies, with a population not much exceeding half a million in the whole, a single European power might subdue them with less expense, and more honor, than to pay them the re-

quired tribute; but national interests and prejudices have hitherto prevented them from taking this honorable course, and induced them to seek the protection of their commerce by disgraceful stipends. Encouraged by this policy, the Barbary powers have enriched themselves, gradually acquired strength, and reduced their piracy to a system.

The regency of Algiers is the principal, and by far the most formidable of these powers. The dominions of the dey commence on the southern border of the Mediterranean, at about the meridian of London, and extend easterly four hundred and sixty miles; and in breadth from the sea to the desert, an average of seventy. This territory contains a mixed population of four hundred thousand, consisting of Turks, Arabs, Jews, and renegade Christians, one fifth of which is collected in the city of Algiers. This city is situated on the side of a hill, rising suddenly from the shore of a capacious bay, in the western section of the territory: it is surrounded by a wall thirty feet high, a mile and a half in circumference, and twelve feet thick; its approaches are defended by five hundred cannon. The houses are generally built of brick or stone, contiguous to each other, with flat roofs, so that a person may pass on their tops nearly from one end of the city to the other. The dey's palace and some of the principal mosques are magnificent buildings; the whole makes a beautiful and commanding appearance from the harbor; this city is the only one of any consequence in the territory, and has a considerable commerce; but the principal source of its revenue and wealth, is the system of piratical warfare carried on against Christian nations.

*Algerine piracy.* Soon after the close of the revolutionary war, the commerce of the United States began to extend itself to the Mediterranean, and being entirely unprotected, became an object of cupidity to the Barbary powers. Without any previous notice, and without any pretext other than that congress had not purchased their friendship by a tribute, the Algerine corsairs, between the years 1785 and 1793, captured and carried into Algiers fifteen American vessels. The ships and cargoes were made prizes, and their officers and crews, amounting to one hundred and eighty, condemned to slavery in its worst forms. Under the confederation, congress had no means to protect commerce, or to ransom their unhappy citizens. Their situation attracted the early notice of the American government under the constitution: but without a navy,

and without an adequate revenue, it could do no more than adopt the European tributary system.

*First treaty with Algiers.* Negotiations were set on foot under the direction of Colonel Humphrey, the American minister at Madrid, which terminated in the year 1795, in a treaty providing for the ransom of the captives, for \$800,000, being about eight thousand dollars for each person, then remaining alive, and the payment of an annual tribute of twenty-three thousand dollars in maritime stores. Sufficient funds were provided, but owing to the confused state of things in Europe, it became impossible to remit them by the time stipulated in the treaty. This delay was made a pretext for further exactions. The dey refused to deliver up the captives, and his ultimate compliance was purchased by a further present of a frigate of the value of one hundred thousand dollars. The tribute continued to be paid, and peace with the dey preserved, until the commencement of the war of 1812. At this period his maritime strength had considerably increased by his exactions from the United States and several European powers. He was induced to believe that a war between Great Britain and America, would annihilate the naval power of the latter, and render its commerce a rich and unprotected prey to his corsairs. He had then just concluded a treaty with Portugal, by which he had exchanged the privilege of pirating on the commerce of that nation for an annual tribute. About the same period his old enemies, the Sicilians, had purchased the protection of England, by which he was deterred from pirating on them. The principal source of his revenue arising from a share in the prizes of his corsairs, was by these circumstances greatly diminished, and he was induced to seek a war with the United States to replenish his coffers, and give employment to his marine.

*Pretences of the dey for the renewal of his piracies.* With a power governed by principles like those of the dey of Algiers, little pretence or provocation was necessary. In the present instance his claims were; that the cargo of the ship *Allegany*, which arrived at Algiers in July, 1812, with naval stores for the payment of the annual tribute, stipulated by the treaty of 1795, did not contain such an assortment of articles as he had right to expect: and that the year mentioned in that treaty, was the lunar year of the Mahometan calendar, embracing twelve revolutions of the moon, and a period of three hundred and

fifty-four days only : this, in the course of the seventeen years that the tribute had been paid, made a difference of half a year. On this account the dey demanded an arrearage of twenty-seven thousand dollars. This was the first time that the distinction between the Christian and the Mahometan year had ever been claimed, and was now evidently brought forward as a pretext for exacting money, or declaring war. The dey gave orders to his minister of marine, that the cargo of the *Allegany* should not be received, that she should immediately quit the port, and that the American consul, Colonel Lear, should embark in her, as he would not suffer the representative of any government to reside in his dominions, who did not cause every article to be brought as he ordered. Every attempt to explain on the part of the consul was without effect, and he was given to understand, that unless the arrearage was immediately paid, he should be sent to the marine in chains, the *Allegany* and her cargo confiscated, every citizen of the United States in Algiers condemned to slavery, and war forthwith declared. After various ineffectual attempts to mitigate these demands, Colonel Lear received this definitive answer from the dey's dragoman : that he should to-morrow morning pay into the treasury twenty-seven thousand Spanish dollars, and immediately depart with his family and all the citizens of the United States, from the regency of Algiers. On failure of payment, that the penalties first threatened would assuredly be inflicted. This decision, delivered in a haughty and menacing tone, was viewed by the consul as conclusive ; and he, desirous of averting the threatened calamities from himself and family, as well as from a number of his countrymen who were involved in the same denunciation, made every effort to raise the money. As he was without funds, and under the severe displeasure of the dey, he found it difficult to procure the requisite sum. After nearly twenty-four hours spent in the most anxious solicitude, he found a friend who would accept his draft on the American consul at Gibraltar, and advance the money ; and by these means it was procured and paid into the treasury by the time limited in the dey's message. Having committed his concerns to the care of the Swedish consul, Col. Lear, with his family, and about twenty American citizens, embarked on board the *Allegany* for the United States ; and the dey immediately commenced a piratical warfare upon their commerce. On the 25th of August following, the brig *Edwin*, of Salem, on a voyage from Malta to Gibraltar, was

taken by an Algerine corsair, carried into port, and condemned as a prize. The captain and crew, ten in number, were made slaves.

*The dey's terms of peace.* The president, solicitous to relieve these unfortunate captives, sent a confidential agent to Algiers with the means of effecting their ransom, and with instructions to accomplish it, if it could be done at the rate of three thousand dollars per man. To every overture of this kind the dey replied, he would not sell his American slaves for two millions of dollars. To an application made in a confidential manner to one of the dey's ministers, to know what terms he expected to extort from the United States by holding their citizens in slavery, it was replied, that they must pay him two millions of dollars for the privilege of passing the straits; and all arrears of tribute which he claimed to be due on the treaty of 1795, in consequence of the cargo of the *Alleghany's* not being received, and that, then the treaty of 1795 might be renewed. This seemed to place their prospects of deliverance at a hopeless distance. The war, which had just then commenced, shut out American vessels from the Mediterranean, and prevented any further attempts for the relief of the captives.

*Act of congress relating to Algiers.* Immediately on the close of the war, the President called the attention of congress to this interesting subject. In a message of the 23d of February, 1815, he states, "that the hostile proceedings against the American consul at Algiers in 1812, had been followed by acts of direct warfare against the citizens of the United States, trading in the Mediterranean, some of whom are still detained in the most rigorous captivity." The message concludes with recommending a declaration of war against that power. Congress, on the 2d of March, in pursuance of this recommendation, passed an act for the protection of commerce against Algerine cruisers. This act, though it did not in terms contain a formal declaration of war, authorized the President to send a sufficient force to the Mediterranean, and adjoining seas, to protect the commerce of the United States; to capture, and send in as prizes, all Algerine vessels, and to commission privateers against them.

*Commodore Decatur's expedition.* The provisions of this act were promptly executed by the president; and on the 20th of April following, Commodore Decatur sailed from New York with the *Guerriere*, *Constellation*, and *Macedonian*

frigates, accompanied with six small ships of war, for the Mediterranean. He touched for advice at Tangiers and Cadiz, and arrived in the bay of Gibraltar in twenty-five days. Here he learned that the Algerine squadron which had been cruising in the Atlantic, had returned and passed up the straits. This fleet containing nearly the whole of the dey's marine, consisted of four frigates, six corvets, sixteen small vessels, and forty gunboats, carrying four hundred and sixty-three guns, and four thousand seven hundred and forty-five men, and were cruising in different parts of the Mediterranean, acting in concert, looking out for American merchantmen, and depredating on the commerce of those nations who had not purchased the dey's friendship by tributary treaties. At Gibraltar the commodore also learned that some officious Englishman had despatched intelligence of his arrival to Algiers. The information received at Gibraltar determined Decatur to proceed without delay up the Mediterranean, in the hope of intercepting the enemy before he could return to Algiers or gain a neutral port. In this he was happily not disappointed.

*Capture of an Algerine frigate and brig.* On the 17th of June, off Cape De Gatt, he fell in with the frigate *Magouda* of forty-six guns, under the command of Rais Hammida, admiral and commander in chief of the Algerine fleet. The *Guerriere* immediately brought her to action, and captured her, after a running fight of twenty-five minutes. On the first broadside the admiral was killed, on the second the enemy on deck left their quarters, ran below, and abandoned the ship to her fate. The Algerines had thirty killed, and four hundred and six, including the wounded, made prisoners. The commodore sent his prize into Carthage, and continued his search after more of the squadron; two days afterwards off Cape Palos, he came up with a brig of twenty-two guns, and one hundred and eighty men. After a chase of three hours she ran into shoal water on the Spanish coast, and was followed by four of the commodore's light vessels, to which she surrendered after a loss of twenty-three men. No Americans were killed or wounded. The captured brig, with most of the prisoners, was also sent to Carthage, where she was detained by the Spanish authorities on the ground that she was taken within their waters. She was afterwards given up to be restored to the dey, the Spaniards claiming it as an act of generosity on their part towards him.

*Negotiations with the dey.* From Cape Palos the American squadron proceeded to the bay of Algiers, and made the harbor on the 28th of June, with a view of intercepting the return of the residue of the Algerine fleet, and opening a communication with the dey. Taking a position out of the reach of the enemy's guns, the commodore made a signal for the Swedish consul to come on board; and sent a flag on shore with a letter from the president, demanding of the dey a release of the American captives, and satisfaction for his depredations. On the receipt of this letter, the captain of the port, accompanied by Mr. Norderling, the Swedish consul, came on board the *Guerriere*. In this conference the commodore, who, with Mr. Shaler, had a joint commission to negotiate a treaty, proposed as a basis on which alone they would agree to any adjustment, an absolute and unqualified relinquishment of any demand of tribute on the part of the dey thereafter, on any pretence whatever. This proposition was haughtily rejected by the Algerine minister. Do you know what has become of your fleet? inquired the commodore. They are safe in some neutral port, was the reply. Not all of them, answered Decatur, and gave him the particulars of the capture of the frigate and brig, and the death of the admiral. On the Algerine's expressing his disbelief of this story, Hammeda's lieutenant was called up, who confirmed all the particulars. He was then willing to negotiate on the proposed basis, but premised that he was not authorized to conclude a treaty, and requested the American commissioners to state more particularly the terms they had to propose. This being done, the captain of the port requested a cessation of hostilities, and that the negotiation might be conducted on shore, pledging himself for their security while there, and a safe return to their ships whenever they wished. Neither of these propositions were acceded to, and the dey's minister was given to understand, that the negotiation must be conducted on board the *Guerriere*, and that hostilities would be continued against the remaining ships, which were hourly expected into port, until the treaty was signed. The alternative now presented was most humiliating to the Algerine tyrant; the loss of his whole fleet, or submission to the terms of the American commissioners. The port captain and Swedish consul then went on shore, and returned on the next day with information that they were commissioned to treat on the proposed terms. A treaty in form was then produced, which the Algerine negotiator was informed would not be

varied in any material respect ; he was also told that discussion was not only useless but dangerous on his part, for if the Algerine squadron were to appear before the treaty was signed, they would assuredly be captured. On examining the proposed treaty, the port captain was extremely anxious to have the article which provided compensation for property which had been previously plundered, dispensed with, representing that it had been distributed into many hands ; that it was the predecessor of the present dey who had commenced the war, and it would be unjust to make him liable for the depredations of the former dey. The article was retained. After various attempts to obtain a truce, as well as to gain time, it was at length agreed that hostilities should cease, as soon as a boat bearing a white flag should be seen putting off from the shore ; the Swedish consul pledging himself that it should not be done until the treaty was signed, and the captives were safe in the boat. The Algerine minister and the Swedish consul then went on shore, a distance of five miles, and returned in three hours with the treaty executed, and all the captives. Their great despatch saved another of the Algerine vessels from capture. During their absence, a corvette hove in sight, which would have been taken, had there been another hour's delay.

*Terms of the treaty.* The principal provisions of this treaty, which was wholly dictated by the American negotiators, were, that no tribute, under any pretext or in any form whatever, should be required ; that all American captives should be given up without ransom ; that compensation should be made for vessels captured or property seized or detained at Algiers ; that the persons and property of citizens of the United States found on board the vessels of other nations, which might be captured by the Algerines, should be held sacred ; that the vessels of either party putting into the ports of the other, should be supplied with provisions at the market price, and if repairs were necessary, their cargoes might be landed for that purpose without paying duties ; that if a vessel belonging to either nation should be shipwrecked on the coast of the other, she should not be given up to plunder ; or if attacked by an enemy within cannon shot of a fort, she should be protected, and no enemy be permitted to follow the vessels of either party within twenty-four hours of their leaving port ; and that all citizens of the United States taken in war, should be treated after the manner of civilized warfare, and exchanged, or returned at the end of the war, without ransom. The rights



of American citizens on the ocean and land were fully provided for, and the dey and regency of Algiers, in their intercourse with the United States, compelled to abandon their piratical system, and adopt the principles of civilized society.

Immediately on the signature of the treaty, Mr. Shaler went on shore, and received a quantity of cotton which had been left by the late Consul when he was driven from Algiers in 1812, and ten thousand dollars as a compensation for property captured and destroyed.\*

*General results of the treaty.* The Algerine war was terminated in twelve days from the commencement of hostilities, by this treaty, so highly honorable and advantageous to the United States, without the loss of a man on their part. Its very favorable result, owing as well to the bravery of Decatur and his men, as to the fortunate circumstance of the dey's fleet being at sea on the arrival of the American squadron, and his anxiety to prevent their loss, was of the more consequence, as it led to the abolition of the disgraceful practice of paying tribute to the piratical states; and induced a treatment of them more according to their deserts. It was the first instance of a fair and honorable treaty's being made with Algiers without the intervention of tribute or presents, and furnished a noble example to other powers. The rencontre with the frigate and brig, and the subsequent negotiations, clearly developed the character of this enemy; severe and cruel to a prostrate foe, but a coward in the face of manly resistance, haughty and insulting with the advantage on his side, but abject and submissive to a conquering force.

*The Algerine vessels restored.* After the conclusion of the treaty, the American commissioners, as a gratuitous act on the part of the United States, agreed to give up the captured vessels. They were induced to this by a consideration of the great expense it would require to put them in a condition to reach an American port, the impossibility of disposing of them in the Mediterranean, and the pressing importunity of the dey, who represented that this would be the best method of satisfying his people with the treaty, and consequently the surest guaranty for its observance. The policy of the measure was the more obvious, as otherwise this dey would probably have fallen a victim to the indig-

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\* Decatur and Shaler's letter to the Secretary of State, July 4th, 1815.

nation of his subjects, and his successor would have sought his safety in disavowing the acts of his predecessor.

*Loss of the Epervier.* Captain Lewis, in the brig Epervier, was immediately dispatched with the treaty to the United States; several of the unfortunate captives took passage with him. The brig was lost at sea with all her crew and passengers.

*Decatur proceeds along the coast.* The commodore, having dispatched two schooners to conduct the captured ships from Carthage to Algiers, and having left Mr. Shaler there as consul general to the Barbary powers, proceeded with the rest of the squadron to Tunis. Another object of this expedition, next in importance to a settlement with Algiers, was to make a display of American ships of war along the Barbary coast, to convince those powers, that the war with Great Britain, instead of annihilating, had greatly augmented the naval power of the United States, and that they possessed both the means and the determination to protect their commerce in that quarter.

The two heaviest ships of Decatur's squadron, and some of his smaller vessels, were prizes from the British navy. This circumstance added much to the general impression made by the appearance of the American fleet in the Mediterranean. Commodore Decatur was directed, after accomplishing the business at Algiers, to range along the Barbary coast, and touch in at the principal ports; and was to be followed by a relief squadron of heavier ships, under Commodore Bainbridge: both divisions contained seventeen ships of war, and nearly the whole strength of the American navy.\*

*Demand on Tunis.* At Tunis Decatur learned from the consul, that during the war with Great Britain, two British merchant vessels, prizes to the American privateer Abieleno, having been sent into that port, had been taken out, and carried off, by a British cruiser; and that a company of Tunissian merchants had been suffered to take the property of an American citizen, under pretence of purchase, at their own price, and much below its real value. He immediately addressed a note to the prime minister, demanding satisfac-

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\* Decatur's squadron—Frigates Guerriere, Macedonian, Constellation; sloops Ontario, Epervier; schooners Spark, Spit-fire, Torch, Flambeau.

Bainbridge's squadron—Independence, seventy-four; frigates United States and Congress; small vessels, Boxer, Saranac, Chippewa, Erie, and Lynx.

tion for these injuries, and a full restoration of the property. The bashaw acknowledged the justice of the demands, and required twelve months to procure the money. This was refused. Satisfactory assurances were then given, that payment should be immediately made; the commodore then landed, and received the visits of the different consuls. The bashaw's agent arrived with the money, amounting to forty-six thousand dollars, at a time when Decatur was holding a conversation with the British consul; throwing the bags down with indignation, and addressing himself to the Englishman, he said, "See what Tunis is obliged to pay for your insolence; you first violate our neutrality, and then leave us to be destroyed, or pay for your aggressions." The money was paid into the hands of Mr. Noah, the American consul, and agent for the owners of the privateer; and a messenger dispatched by the bashaw to England, to demand its repayment.

*Demand on Tripoli.* After this visit to Tunis, the commodore next proceeded to Tripoli, and made a demand for a similar violation of neutrality from that regency. The bashaw had permitted two American vessels to be taken from under the guns of his castle, and refused protection to an American cruizer within his jurisdiction. Satisfaction to the full value of these vessels was obtained, and the money, amounting to twenty-five thousand dollars, paid into the hands of the American consul. After the conclusion of this affair, the consular flag which Mr. Jones had struck in consequence of this violation of neutrality, was hoisted in presence of the foreign agents, and saluted from the bashaw's castle.

*Discharge of Danish and Neapolitan seamen.* The commodore found here two Danish, and eight Neapolitan seamen, confined in slavery; and obtained their release without ransom. On leaving Tripoli, he touched at Messina, and landed the Neapolitans; and then proceeded to the city of Naples: here he addressed a note to the minister of his Sicilian majesty, informing him of the liberation and return of his subjects, and received a highly complimentary reply, and the offer of any accommodation for his squadron that he wished. On the 31st of August he sailed for Carthage, expecting to meet the relief squadron under Commodore Bainbridge; but not finding him there, he proceeded to Gibraltar, where he was joined by that officer; and having reported to him his proceedings, sailed in the Guer-

riere for the United States, and arrived the 12th of November.

*Proceedings of Commodore Bainbridge.* The second division of the Mediterranean fleet sailed from Boston on the 12th of June; made a demonstration along the Barbary coast, stopping several days before Algiers, Tunis, and Tripoli: finding that every thing which the honor and interest of the United States required from these powers, had been accomplished by Commodore Decatur, he proceeded to Gibraltar, and reached that port on the 3d of October; and from thence, leaving the frigate United States and several small vessels to winter in the Mediterranean, he sailed for Boston, and arrived on the 15th of November. The timely exhibition of this force, and the prompt and effectual manner in which justice was demanded and enforced from the Barbary states, and their insults chastised, were productive of highly beneficial consequences. The commerce of the United States, which before was exposed to imminent hazard in that region, was rendered secure; the American flag has since been so much feared and respected by those powers, that they have never dared to molest a single ship sailing under its protection; and the national character elevated in the view of Europe. The infant navy of the United States, which had acquired great eclat in the late war, was now cherished with enthusiastic ardor by the citizens.

*Ratifications exchanged.* The original treaty which had been transmitted to the United States by the *Epervier*, was lost in that vessel. In the summer of 1816, a ratified copy was sent to Mr. Shaler, and presented to the dey for his acceptance; who affected not to understand why another treaty should be offered him; complained that it was variant from the original, and insisted that it should be accompanied with presents; the appearance of Commodore Shaw in the bay of Algiers with a respectable squadron removed the dey's scruples, and induced him to accept the treaty without any further stipulations.

*Lord Exmouth's expedition.* Notwithstanding the ill success of the regency of Algiers in their hostility against the United States, they ventured in the following year to adopt a similar course in relation to Great Britain. On a slight pretext, the dey seized and confiscated the goods and imprisoned the persons of a number of British subjects residing at Bona, an Algerine sea-port on the Mediterranean; massacred some of them; and confined the British consul

at Algiers in a dungeon. In August Admiral Sir Edward Pelew, then bearing the title of Lord Exmouth, was sent with five ships of the line and five heavy frigates, to demand satisfaction. Captain Dashwood was dispatched in the *Prometheus* from Gibraltar, with a flag to obtain the release of the consul. The dey refused to give him up, or suffer his family to be taken away, determining to hold them responsible with their lives for any hostility committed by the English. The British captain succeeded in getting off the consul's wife and daughter disguised in midshipmen's uniform, leaving a boat to bring off their infant child. The surgeon gave it a composing draught, put it in a covered basket, and was proceeding to the boat; in passing the gateway, the little infant, unconscious of danger, made a noise by which they were discovered, in consequence of which the surgeon, three midshipmen, and the whole company were seized, and thrown into a dungeon. The next morning, however, the dey sent off the child to its mother on board the *Prometheus*. On the 25th of August, Lord Exmouth, with his fleet, in conjunction with a Dutch squadron of five large sail, under the command of Admiral Capellon, appeared before Algiers.

The British admiral immediately sent in a summons, demanding the cautionary surrender of the Algerine fleet; the release of the consul, the delivery to the admiral of all who had been concerned in the massacre at Bona; the renewal of the former treaty, and the release of all European captives in his dominions without ransom. The dey, having obtained previous information of this armament, had taken every precaution to place himself in an attitude of defence. The clamor which the American treaty had excited among his subjects, had determined the dey to hazard a battle with the English and Dutch forces. His fleet was in harbor, and drawn up under the guns of the fortresses; he had collected an army of forty thousand Janizaries, and thrown up large additional works on both flanks of the city, and about the entrance of the mole. Relying on these preparations, he sent an insolent denial to the requisitions of Lord Exmouth. On the reception of this answer, the admiral immediately bore up and anchored his flag ship, the *Queen Charlotte*, of one hundred guns, within fifty yards of the mole; the other ships, with a gentle breeze, taking their appointed stations in line of battle. The firing commenced at three in the afternoon, and lasted, without intermission, until half past eleven. Four large Algerine frigates, five

corvets, thirty gunboats, several merchant vessels, and a great number of small craft, comprising nearly the whole of the dey's marine, were destroyed; as were also his store-houses and arsenal. Six thousand Algerines were killed or wounded, the dey's palace was pierced with several shot, and many houses destroyed. The English and Dutch lost 128 killed, and 690 wounded. At two in the morning a land breeze springing up, the ships warped off; and the next day a peace was concluded, as prescribed by the English, stipulating the immediate release of all European slaves in the dominions of the dey; the abolition of Christian slavery forever; a delivery to the British flag of all money received for the redemption of captives since the commencement of the year, and full reparation to the British consul for all the losses he had sustained in consequence of his confinement. These several chastisements successively inflicted on the Algerines by the Americans and British, and the destruction of their marine by the latter, obliged them to abandon for a considerable time, in a great measure, their piratical system. Sweden, Denmark, Portugal, and Naples, however, still pay them an annual tribute of twenty-four thousand dollars each.

*Conquest of Algiers.* To close the story of Algerine piracies, it is to be hoped forever, it may be added, that in consequence of an insult to the French consular flag, an armament consisting of thirty-five thousand land troops, under General Bourmont, accompanied by a large naval force under Duperre, sailed from Toulon on the first of June 1830; disembarked at a small port twelve miles eastward of Algiers on the 16th, and commenced the bombardment of the city on the 4th of July. On the 5th the emperor's fort, the principal fortress, was abandoned, and blown up by order of the dey: and the French took possession of the city without further resistance. Algiers was reduced to absolute and unconditional submission. Eighty millions of public treasure, a sum more than sufficient to remunerate the expenses of the war, was found. Private property and the rights of persons were respected. What disposition will ultimately be made of this conquest, remains yet to be determined.

*Newfoundland fisheries.* The treaty of 1783, which terminated the war of the revolution, contained a provision, that the citizens of the United States might still enjoy the privilege of fishing on the British North American coast, and of improving the adjacent shores for the purpose of

curing their fish, as they had done while British subjects. This privilege had been profitably improved to a considerable extent : and the fish thus taken and cured transferred to foreign markets, without the expense of a shipment to the United States. By these means the American merchant engaged in the fisheries was able successfully to compete with the British in the markets of Europe. The treaty of Ghent, being merely a treaty of peace, contained no provision for the renewal of this article, and was entirely silent on the subject of the fisheries. The Americans claimed that this was a privilege which they had ever enjoyed in common with British subjects, not depending on the treaty of 1783, which was only a recognition of a pre-existing right ; and that the treaty of Ghent restored things to their former state, where there were no stipulations to the contrary ; and continued their fisheries on the coast in the same manner as before the war. The British ministry claimed that the separation of the United States from Great Britain deprived them of all privileges which they had ever enjoyed as British subjects ; that the right claimed depended entirely on the treaty of 1783 ; that the declaration of war abrogated all the relations subsisting between the two countries depending on former treaties ; and that the privilege contended for not being granted in the treaty of 1814, was lost. In pursuance of these principles, they issued an order bearing date the 17th of June, 1815, to Sir Richard Keats, the commanding officer on the Halifax station, to prevent the citizens of the United States from using the waters or shores of the British North American possessions for any purposes connected with the fisheries. This matter was afterwards the subject of negotiation, and the privilege ultimately obtained under some restrictions.

*Negotiations with Great Britain.* The treaty of Ghent left the subject of commercial intercourse between the two countries unsettled, and contained no stipulations respecting the rights of the parties, when one should be at war, and the other at peace. When the treaty was negotiated, the prospect of a long continued peace in Europe, rendered a definition of neutral rights a matter, although extremely desirable, yet of little immediate practical utility. Though the American principles on this head were strenuously urged on the British envoys, and at one time made an indispensable point in the instructions of the American commissioners, nothing could be obtained. In consequence of the return of Bonaparte from Elba, and his

resumption of the throne of France, the year 1815 opened with the prospect of another protracted European war. In such an event, the same grounds of controversy would exist, and the same collisions spring up as had induced the war of 1812. The United States, having commenced a war in defence of their rights as neutrals, and having made peace without any satisfaction for their violation, or stipulation for their future observance, would, it was apprehended, be considered as having abandoned them. To prevent such a construction, and obtain, if possible, their recognition, as well as to arrange the subject of commercial intercourse, Messrs. Adams, Clay, and Gallatin, previous to their return from Ghent, were instructed to repair to London, and open a negotiation on these subjects. After considerable delay on the part of the British, and several interviews with the minister, a commission, consisting of Messrs. Adams, and Golburn, two of the Ghent commissioners, and Mr. Robinson, secretary of the board of trade, were designated to treat with the American envoys.

*Propositions of the American commissioners.* At their first interview, the ministers of the United States being requested to bring forward the subjects on which they wished to negotiate, presented two, which were left unsettled by the treaty of Ghent, viz. commercial intercourse and neutral rights. The first object they stated, embraced the direct trade to the British European dominions, and the trade to their possessions in the East and West Indies, and on the continent of North America. The other, the principles which should regulate the conduct of each nation, when one should be at war and the other at peace. The British commissioners inquired of the American, whether the two subjects were so inseparably connected, that a treaty could not be formed embracing the first, without touching the latter, giving them to understand, that in such an event, further negotiation would be useless, as they were not empowered to treat on the subject of neutral rights. The reply was a consent to treat on commercial subjects only.

The basis upon which the American government have ever been disposed to place their foreign commerce, has been to have the most free and unrestrained interchange of commodities; to suffer any articles which the convenience of their citizens may require, to be imported in the ships of such nation as could afford them cheapest; and their own surplus productions, to be exported in the same manner. They sought to consider the community of merchants



throughout the world as composing one great family, granting to all equal privileges, and leaving capital, industry, and enterprise, to depend on their own exertions for success. These liberal principles, it is obvious, must be universally adopted, and be reciprocated, or be abandoned. They have been acceded to so far as relates to navigation, by several European powers, in their intercourse with the United States; and treaties, founded on this basis, have been formed with Sweden and Denmark. They are, however, altogether opposed to the British navigation system, the governing principle of which is to suffer no goods to be imported in any ships except their own, or those of the nation of which the imports are the production, and equally opposed to their protecting system, which excludes from their markets any foreign articles which shall interfere with their home industry. The direct intercourse between the United States and Great Britain, consisting principally of an interchange of the raw materials of the one, for the manufactures of the other, was adjusted without difficulty. The British commissioners were disposed to give to it every facility. All discriminating duties on the imports into either nation, whether in the ships of one or the other, were abolished. On the subject of an intercourse with their East India possessions, consisting principally in an exchange of specie for the silk and cotton manufactures of that country, the British were willing to allow the Americans a participation in the trade, provided they brought their goods directly to the United States, not suffering them to be carried to the markets of Europe, without the expense of a double voyage. No arrangement could be made in relation to an intercourse between the United States and the British North American and West India colonies. The lumber, provisions, and live stock of the United States, are articles of the first necessity to the West Indies; while the productions of the sugar cane, their staple, is an article of great consumption in the United States; but since the acquisition of Louisiana, and the extended and increasing cultivation of the cane in that region, their trade is comparatively of little consequence. In relation to the intercourse with the British North American possessions, their productions being the same with the northern sections of the United States, a traffic with them is very readily dispensed with. Still, however, the American commissioners were willing to place the whole on a liberal footing. They were desirous of considering the

whole British empire in a commercial view, as composing one great community, and of opening with it, a liberal, reciprocal, and unrestrained intercourse.

*British views.* Not so the British; they, steadily adhering to the principle of restraining their colonial trade to themselves, except when a partial and temporary admission of other nations to a participation of it suited their convenience; were willing to sacrifice the essential interests of the West India Islands to a temporary and uncertain benefit of the mother country. The colonial trade has ever since been the subject of legislative contest between the two governments, each trying to out-do the other in embarrassing it, to the great injury of that portion of the British empire.

*Result of the negotiation.* A temporary convention of four years, grounded upon the foregoing principles, was the result of this protracted and laborious negotiation.

This meagre convention, obtained after much difficulty and delay, in a commercial view, was by no means worth the time and talents spent in obtaining it; but the negotiation, as it unfolded to the view of the American government the principles upon which the British meant to conduct their commercial and maritime system, was attended with important results. Their refusal to treat on the subject of neutral rights clearly manifested a determination to improve their naval superiority in the European war, then expected to be renewed, to impose on neutral navigation, all the restrictions and embarrassments to which it had heretofore been subjected. Paper blockades, impressments, searches, seizures, and unwarranted condemnations were again to be expected, and the maritime rights of neutral nations were only to be measured by the spirit and ability manifested to support them. This disposition, on the part of the British government, fortunately produced on the American, a determination to pursue a system of naval preparation, adequate to resist the first aggressions on neutral rights. The renewed European war terminated in the battle of Waterloo, on the 17th June, 1815. The spirit of defensive preparation continued in the United States; and produced a navy of heavy ships competent to defend the coast, and of light vessels to assail British commerce; so that in any future contest with that nation, the advantage must be on the side of America.

In a subsequent negotiation on the subject of the colonial trade, the parties differed only on one point. The American government insisted, that the duties imposed on their

lumber and provisions imported into the West Indies, should be no higher than those imposed on similar articles when imported from Nova Scotia, New Brunswick, and the Canadas. The British rejected this proposition on two grounds—one, that the great abundance of these articles in the United States, and the facility with which they could be transported, would destroy a profitable branch of trade between different portions of the empire; the other, that they would not consent to regulate such trade at the suggestion of any foreign power. Soon after the commencement of Mr. Adams' presidency, this point was given up; the British then took other grounds, so that no arrangement could be made; and a state of non-intercourse succeeded.

## CHAPTER II.

First meeting of the 14th Congress—Message—Proceedings of Congress—Repeal of the internal duties—Debates on the Tariff—Sectional divisions on the subject of encouraging manufactures—Adjustment of claims resulting from the war—Claims of the Canadian volunteers—Of the crews of public armed ships for enemy's vessels captured and destroyed—Of persons connected with the army for losses of private property—Of the disbanded officers for a gratuitous allowance—Compensation law passed—National currency—Depreciated paper, its effects on the community—Origin and nature of banking institutions—Defects in the American system of banks—Proposition for a national bank—Constitutional objections—A bill for its establishment passed—Its provisions—Debates on the bill relating to the convention with Great Britain—Law passed for the admission of Indiana into the Union—Its provisions—Presidential election for 1817—Preparatory caucus—Proceedings and result of it—View of the origin and effects of the caucus system.

*Meeting of congress.* On the fourth of December, the period fixed by the constitution for the first meeting of the fourteenth congress, a quorum of both branches assembled, and the house of representatives organized themselves by the choice of Mr. Clay, speaker. On the 5th, the president sent his message, congratulating them on the successful termination of the Algerine war; a general pacification with the Indian tribes; and the general prosperity of the country on the return of peace.

*Message.* The measures recommended were, the proper arrangement of the finances, with a view to the receipts and expenditures of a permanent peace establishment:

The adjustment of the impost duties to the objects of revenue, and the encouragement of manufactures:

The establishment of a corps of invalids, with a view to make provision for the aged, infirm, and disabled officers of the late army:

The enlargement of the military academy at West Point, and the establishment of others in different sections of the union:

A classification, and a new organization of the militia:

The preservation, and gradual increase of the navy:

A provision for the disbanded officers of the late army:

The establishment of a uniform national currency;

And internal improvements by means of roads and canals.

On the latter subject he remarks: "No objects within the

circle of political economy, so richly repay the expense bestowed upon them ; there is none, the utility of which is more universally ascertained and acknowledged ; none that do more honor to the government, where wise and enlarged patriotism duly appreciates them. Nor is there any country which presents a field, where nature invites the art of man to complete her work for his accommodation and benefit. These considerations are strengthened by the political effect of these facilities for intercommunication in bringing and binding more closely together the various parts of our extended confederacy. While the states, individually, with a laudable enterprise and emulation, avail themselves of their local advantages by new roads, by navigable canals, and by improving the streams susceptible of navigation, the general government is the more urged to similar undertakings, requiring a national jurisdiction by the prospect of thus systematically completing so estimable a work. And it is a happy reflection that any defect of constitutional authority which may be encountered, may be supplied in a mode which the constitution itself has providently pointed out."

*Arrangement of the finances.* There have been few meetings of congress since the organization of the government, at which a greater variety of interesting subjects pressed themselves upon the consideration of the national representatives. Among the first, was the arrangement of the system of finance to a state of peace. The leading principle has ever been to raise the ordinary revenue from impost and tonnage duties, and sale of the vacant lands; and to resort to internal duties and direct taxes only upon extraordinary occasions, and for limited periods. The difficulties experienced at the commencement of the late war in arranging and bringing into speedy operation a system of internal revenue, and the consequent embarrassments of the treasury, induced the secretary to recommend a continuance of the least exceptionable part of that system. His views were supported by many enlightened financiers in both houses ; but a majority decided in favor of the total abolition of the system of internal taxation, with the least possible delay.

*Tariff.* The adjustment of the tariff produced many and long debates, principally of a sectional character. The double duties imposed during the war, were to be taken off, and a system adopted adequate to raise a competent revenue ; and at the same time, give proper encouragement to domestic industry. Almost every item of impost had its ad-

vocates and opposers, as it affected the interests of different portions of the union. The sections, into which the country divided itself on these questions, were the east, the south, and the west.

*Views of the south.* The large planters of the south formed the predominant interest in that section; they, having valuable staples for exportation which commanded a ready market, and no important home manufactures, were uniformly opposed to high duties, laid with a view to the protection of American manufactures. The principles they advocated, were, that imposts should be laid solely with a view to revenue; that industry, enterprise, and capital, should be left to seek employment in those channels which afforded the fairest prospect of reward; that prohibitory and protecting duties operated in an unjust and oppressive manner in favor of the manufacturer, against the consumer, and were contrary to the spirit of the constitution. That the American manufactures were yet in an infant state, and incapable of supplying the wants of the people; that destroying the competition between foreign and domestic productions, subjected the consumer to purchase goods of an inferior quality, and at extravagant prices. The governments of Europe, having a dense population, and numerous subjects who find it difficult to procure subsistence and employment, might well adopt the policy, as they uniformly had done, of excluding from their markets, every foreign article which could be raised or manufactured at home. This policy carried to its utmost extent in Great Britain, it was admitted, had made on a small island, a great, rich, and powerful nation. The situation of the United States, the representatives from the south contended, indicated a different policy: possessed of a rich unappropriated territory of almost unlimited extent, the first object of government should be to people that region; and instead of confining their citizens to the workshops and manufactories of the east, they should encourage their emigration and settlement on the vacant territory of the west; or, at least, that they should leave them to employ their industry and capital on either object, uninfluenced by the financial operations of government. The eastern section was divided into agricultural, commercial, and manufacturing classes; the commercial portion of this section, apprehending their interests on this question to be the same with the planters of the south, united with them in opposing, though for different reasons, heavy prohibitory or protecting duties.

*Claims of the manufacturers.* The manufacturing interest represented in strong terms, that they had invested millions of capital in their establishments; that they employed thousands of laborers, principally women and children, who otherwise would be out of employment; that they were able to make strong and substantial fabrics of cotton and woolen more durable, and in the end cheaper to the consumer, than foreign goods of the same class; that the country is inundated with importations of cottons and woollens of an inferior quality, calculated by the mode in which they were finished to impose on the consumer, and ruin the American establishments; that however plausible in theory the doctrine of a universal freedom of commerce might be, the experience of centuries had demonstrated the wisdom and policy of each nation's encouraging its own industry by imposts and prohibitions on foreign productions; that while this policy was universally pursued by other nations, it would be the height of folly in the United States, to adopt a different system upon any visionary notions of universal freedom of commerce; that any nation, to be rich and independent, must encourage the productive labor of its citizens, and prevent the exportation of its specie to purchase the productions of other countries; that if the infant manufacturing establishments in the United States were left to struggle with foreign competition, without adequate encouragement, they must sink, their capital be lost, and thousands of citizens now usefully employed, be thrown into a state of idleness and want; that with due encouragement, a domestic competition would be created, which would insure to the consumer, goods of a substantial fabric, and at reasonable prices.

*Views of the agriculturalists.* The views of the manufacturers were zealously seconded by the agriculturalists of the north, who found in the increasing manufacturing establishments, a valuable market for the productions of their soil. The west, remote from foreign market, must evidently depend upon domestic manufactures for their principal supplies. Provisions, their chief production, would not bear the expense of transportation; it was therefore an object of the first consequence with them, to establish a domestic market, and supply themselves with their clothing from their own resources. Their interests in congress found a powerful advocate in Mr. Clay. Their influence was uniformly exerted in support of manufactures. Mr. Jefferson, whose opinions on subjects of political economy were deemed ora-

cular, and who had once said, let the work-shops of America be in Europe, and described great manufacturing cities as so many sinks of corruption, communicated an opinion to the public, that the varied circumstances of the country now required a different policy, and that manufactures ought to be encouraged.

*Protecting principle adopted.* The united efforts of these interests in favor of manufactures, though checked and in some measure counteracted by opposing considerations, ultimately led to the adoption of the principle that protecting duties should be laid on such articles, the manufacture of which, in the United States, had been brought to such perfection as to supply the demand; and where it had not, but was progressing under favorable prospects, such duties should be laid as would afford encouragement, without subjecting the consumer to an unreasonable tax. The cotton manufactures were the most prominent objects; more capital was invested in them than in any other. They were laboring under great embarrassments, owing to the large importations of India goods of the same description, but of an inferior quality. By a judicious and gradual increase of duties upon these goods, until they amounted to a prohibition, a vast capital invested in these manufactures was preserved; a great domestic market opened for the staple of the south, and a competition excited, which insured to the consumer a strong and substantial fabric, at a much cheaper rate than the foreign manufacture. The benefits which have actually resulted to the consumer, as well as to the manufacturer, from the operation of this principle in relation to cottons, show that it may safely be adopted as to others.

Nails are another article, where a duty of five cents per pound, amounting to a prohibition, produced a domestic manufacture to such an extent as to supply the market at a much cheaper rate than before its imposition. The same principle has been found in a great degree applicable to the articles of hats, cabinet-ware, paper, window-glass and leather, on which a duty of thirty per cent. has been laid without injury to the consumer. In short, experience, the only sure test of any measure of economy, has fully demonstrated, that wherever the imposition of a protecting duty has rendered the domestic manufacture profitable, the skill, enterprise, and capital of the American citizen, will be directed to the object until the market is fully supplied.



*Woolen manufacture.* Next in importance to cotton, is the woolen manufacture. This has not as yet experienced an equal degree of protection, owing to the belief that there was neither raw material nor capital employed sufficient to supply the demand. English goods of this class, of an inferior quality and at very cheap rates, continue to be introduced in great profusion, operating to the depression of the woolen establishments, and must finally end in their ruin, unless the same protecting principle which has preserved the cotton is extended to them.

*Claims resulting from the war.* Another subject which occupied a large portion of the attention of congress, was the adjustment of the various claims made upon the justice and generosity of the government in consequence of the war. These presented themselves in a great variety of shapes; few had suffered in their persons or property, but what thought they had a claim to remuneration from the government.

*Canadian volunteers.* In the early part of the contest, a considerable number of inhabitants of Upper Canada, principally emigrants from the United States, induced by the proclamation of General Hull, and the subsequent invasions of that country, joined the American standard, in consequence of which they were declared outlaws and traitors by the British government, and their property confiscated. They presented a memorial to congress describing their merits and sufferings; and requesting a grant of land in the Indiana territory for their services. Their claim was resisted on the ground of its immorality, as the allowance of it would have a tendency to encourage treason. After considerable debate their memorial was granted, and a large tract of land given them in that territory.

*Claims for vessels captured and destroyed.* Another class of applicants were the officers and crews of the public armed ships of the United States, who claimed compensation for enemy's vessels taken and destroyed by them during the war. A general provision was by law made for allowing them half the avails of prizes brought in; but where the captured ship could not be brought into port, their compensation was left to the discretion of congress in each case. On these questions, the importance of building up the American navy, its great merits, and the policy of rewarding the valor of its officers and men, were pressed into service with great effect, and produced liberal grants. Commodore Patterson and Colonel Ross were liberally rewarded

for the destruction of the piratical establishment at Barataria. One hundred thousand dollars were given to Commodore Decatur and crew, for the capture of the Algerine frigate, in consequence of her being given up to the dey.

*Claims for property destroyed in service.* The claims of officers and soldiers, and persons connected with the army, for private property lost or destroyed in public service, were so numerous and complicated, that it was impossible that congress should attend to them individually; they therefore referred them to a commissioner of claims, with instructions to allow all those where private property had been used in public service, and was lost without the negligence or fault of the proprietor.

*Claims for vessels destroyed in harbors.* Another class of applicants, were those whose vessels had been burned in the harbors, or whose houses or other property had been destroyed, when not occupied and employed in public service. These claims were uniformly negatived.

*Claims of disbanded officers.* The claims of the disbanded officers for a gratuitous allowance, beyond their pay and emoluments while in service, from their number and amount, as well as the precedent which such a measure would establish, required the serious consideration of congress. They were supported by the president's recommendation in his opening message. It was urged in behalf of the officers, that they had left lucrative civil employments, and exposed themselves to danger and suffering, in defence of their country's rights; that their property had suffered, and in many instances been lost in consequence of their absence; that after three years service in the army, it was difficult immediately to resume the functions of civil life, and find employment adapted to their various talents; that sound policy required a liberal provision for disbanded officers, that when on any future emergency the country might require military service, it might avail itself of the best talents.

*Objections to their claims.* Against their claims it was urged, that the genius of the American government was pacific, and opposed to the maintenance of a pensioned band of officers, ready to plunge the country into future wars, to gratify their ambition; that it was desirable that this class of citizens should return to the pursuits of civil life, with no marks of distinction from their fellow-citizens; that the greater proportion of the officers now seeking a gratuity, are young men, who had not previously to the war been engaged in regular business, and had made no impor-

tant sacrifices to the public interest; that they had no reasonable grounds to expect that their services would be required for a long period, or to consider the profession of arms as an establishment for life; that a pension or a bounty at the close of the war, would encourage idleness, and create in the recipients an invidious distinction between them and their fellow-citizens; that their pay and emoluments while in service, were a liberal compensation for the duties performed; that the numerous applications for appointments at the commencement and during the continuance of the war, and the anxiety universally manifested at its close to be retained in service, afforded the most convincing evidence that the country never would suffer from a reluctance in officers to engage in military service. The charms of command, the various attractions of military life, and the expectations of finding opportunities of acquiring glory in the field, always afford such inducements as will command the best talents. The genius of monarchical governments leads them to bestow high-sounding titles and liberal pensions on such of their subjects as have distinguished themselves in the field or the cabinet, that they might draw around their thrones a powerful aristocracy for their support. On the other hand, the principles of republicanism forbid the creation of privileged or pensioned orders. They require that the public functionaries should be liberally rewarded for the service rendered, and when that is no longer required, that they should return to private life, and mingle with their fellow-citizens without any invidious badges of distinction. Considerations of this nature prevailed, and the proposition to make a gratuitous allowance to the disbanded officers was negatived.

In addition to these various classes of claims, were others not reducible to any particular head, each depending on its individual merit.

*Compensation law.* While congress were deliberating upon the various claims which pressed upon the treasury from every quarter, they by no means lost sight of what they deemed due to themselves as a legislative body. As the supreme national representation, the business of fixing their own compensation devolved upon themselves. The constitution, as a matter of necessity, provided, that the senators and representatives should receive a compensation for their services to be ascertained by law, and paid out of the treasury of the United States.

In pursuance of this provision, the first congress under the constitution passed a law allowing to each member of either house six dollars per day for wages, and the like sum for every twenty miles travel to and from their respective residences and the seat of government. Their object was to establish such a rate as would command the best talents, and at the same time not so high as to encourage bribery and corruption at the elections. That congress considered the subject of legislation to be of such a nature, that it could not with propriety be farmed out for a given sum by the year. At the first organization of the government, at the commencement of a war, or in other troublesome and difficult times, the public interest might require congress to be in session the greater part of the time. After the government had been some time in operation, its course distinctly marked out, the system of finances arranged, and in times of peace and internal tranquillity, the objects of legislation were comparatively few. An annual session of three or four months would probably be sufficient for all legitimate and beneficial objects, and the members might return to their usual occupations without further interruption. In the American system the whole subject of municipal law, the most difficult and perplexed part of legislation is confided to the state authorities, and the general government has little else to occupy itself about, but the maintenance of its foreign relations; and the collection and disbursement of the revenue. Little, therefore, did any of the predecessors of the fourteenth congress think of constituting themselves permanent officers with an annual salary. So novel was the idea, and so much at variance with every accustomed principle, that it never was before adopted by any legislative body. Different modes and rates of living, and the different value of money at different times, ought to vary the rate of compensation; still a per diem allowance can be the only proper mode. What was an adequate compensation in 1789, might be very insufficient in 1815. Circumstances required an increase of the sum at the latter period, to render it equal in value to the former. A bill was introduced, entitled "an act to change the mode of compensation to the members of the senate and house of representatives, and delegates from the territories," which granted to each member an annual salary of fifteen hundred dollars; to the speaker of the house of representatives three thousand, and the like sum to that member of the senate who in the absence of the vice-president should be called to pre-

side in their deliberations. This bill passed through its various stages, and became a law with much less debate than is usual for bills of this importance. Its advocates contended, that many of the members were professional men, whose absence from their business during the winter occasioned the loss of almost their whole support, in consequence of which many men of talents were obliged to resign their seats, or decline an election; that the increased rate of living required an addition to their wages; that the proposed sum would not greatly exceed in value the average amount of compensat on for ten years past; that changing the mode would probably prevent much unnecessary and prolix debate, and shorten the session of congress to the advancement of the public interest. These and other considerations prevailed; and the bill passed the senate, ayes 22, noes 11, and the house of representatives, ayes 81, noes 67.

*Public opinion.* There was another party who took an interest in this bill, whose feelings were not easily quieted. The sovereign people expressed their disapprobation of the measure in unequivocal terms. The legislature of Rhode Island resolved almost unanimously, "that while they disclaim all interference in the ordinary proceedings of the federal government, within the sphere of their constitutional powers, cannot avoid expressing the strong dissatisfaction which they feel, and which they believe is universally felt, at the late act of congress, appropriating high salaries to themselves out of the public moneys collected into the treasury by a course of burthensome taxes, and which the people were led to believe, and had a right to expect, would be applied to the discharge of the public debt." Similar sentiments, expressed in a great variety of forms by other state legislatures, grand juries, and other meetings of the citizens, together with the result of the elections to the 15th congress, clearly indicated the public sentiment on this measure. In a widely extended country, containing a population of every variety of character, manners, and opinions, it is very rare that any measure of government should be so universally obnoxious, as not to meet with some support: aside from the small circle of legislators who passed this act, it found no advocates in the nation.

*State of the currency.* One of the most important and difficult subjects which came under the consideration of congress, was the situation of the national currency. The little specie remaining in the country at the close of the

war, had found its way to England and the East Indies, in return for their imports, and the currency now consisted almost entirely of the paper of banks chartered by the state authorities, over which the general government had no control, and which had suspended specie payments. These corporations are formed upon principles somewhat different from institutions of the same name in Europe. A number of persons associate together, and subscribe a capital stock varying from fifty thousand to several millions of dollars, according to their location, and the extent of the contemplated business. On this capital they make loans, by discounting bills and notes on time. Their advances are usually made in notes of the bank, payable at their banking house on demand. These being generally for small sums, pass from hand to hand, and form the circulating medium of the country. The bank is also a place of deposit of money for safe keeping. Their charters usually limit the amount of bills allowed to be issued, or debts contracted, to fifty per cent. beyond their capital and deposits. Every bank conducted upon correct principles, has as many debts due, as it owes, with an accumulation of interest, and a capital stock of money paid in to the amount of two thirds of its *outstanding* debts, to meet the demands to which it is subject; and with a moderate share of discretion in its managers, can seldom be embarrassed, and never insolvent. While bank bills are what they purport to be, the representative of specie, and convertible into money at the pleasure of the holder, they furnish to all desirable purposes a convenient specie medium; and may be considered an important improvement in the commerce of society, rendering exchanges much more rapid and easy, and dispensing with a tedious and laborious process in the interchange of property. The facility too with which loans are made by the banks, to be repaid by easy instalments, greatly promotes the business and enterprise of the country. The first institution of this nature was the bank of North America, established at Philadelphia on the suggestion of Robert Morris, near the close of the revolutionary war. The public and private benefits resulting from this institution were soon perceived, and the example followed by the principal cities in the union. The banking system continually increased, and extended to all parts of the country; so that at the commencement of the war of 1812, there were several hundred institutions of this character in the United States. Soon after that period, specie being out of the

country, the banks found themselves unable to continue their accustomed business, and pay their bills on demand, and were reduced to the alternative of discontinuing their operations, or suspending specie payments. Most of them adopted the latter, and discounted more liberally than ever, with an understanding that their bills should not be redeemed with specie. This course changed the circulating medium from specie to paper, more or less depreciated, according to the situation and credit of the bank from which it issued. It is obvious, that a promise which the public know will not be fulfilled in terms, can never be of par value, but is worth more or less, according to the opinion entertained of the honor of the maker, of his ability and disposition to pay, or of the legal means of coercion. The latter was out of the question. These corporations having no visible existence, or tangible property, an execution against them could avail the creditor nothing. A power of issuing bills for a circulating medium not to be redeemed on demand, was liable to great abuse, and in the hands of unprincipled speculators, afforded a convenient opportunity for imposing on the credulity of the public. Several radical defects existed in the outset of the banking business. The property of the individual stockholder, beyond the amount of his capital, was not liable for the debts of the bank. The legislatures who created these institutions, either did not possess the means of restraining the banks within their chartered limits; or were extremely remiss in using them. Scarcely a bank could be found which had not greatly exceeded its charter in contracting debts.

No effectual laws were passed punishing those who, under the cloak of a bank charter, conducted business on a fictitious capital, and perverted the funds pledged for the redemption of their bills. While an individual who counterfeited a dollar of this paper was punished with the loss of liberty, and rendered infamous, a company of speculators might possess themselves of a bank charter, issue bills to an unlimited amount, without a dollar of real capital, and enrich themselves with the fruits of their fraud with impunity. No field for the perpetration of villainy can long remain unoccupied. Bank charters were obtained, a fictitious capital created by taking stockholders' notes for the amount of their subscriptions, without any other security than their shares, and on this baseless system, bank paper issued to an unlimited extent, with which the stockholders enriched themselves.

The bank was then declared insolvent, its doors shut, and the unsuspecting bill holder left to put up with the loss.

Another mode was, where the original stockholders were men of probity and capital, and had actually paid in their subscriptions, for speculators to purchase a sufficient number of shares to obtain the control of the bank, then draw out the funds on their own security, and bankrupt the institution. Instances of frauds of this description took place in different parts of the country, more were apprehended, and a general distrust of bank paper took place, which occasioned its further depreciation. That legislatures should have been so incautious, and regardless of the safety of the community, as to impart to individuals, they knew not whom, a power of issuing bills for a circulating medium, to an extent which had no practical limits, without any personal responsibility, became matter of astonishment and regret, when its effects came to be felt. The delusion, however, pervaded every state in the union. Evils of the most serious and alarming nature resulted from this state of things, both to the public treasury and individual credit. Specie was not to be had to discharge custom-house bonds, and other treasury claims; the paper of the banks was at very different rates, at different times and places. No general standard value could be fixed below the nominal. Duties collected in different ports were paid in paper of very different value, and when disbursements were required to be made at places remote from the place of collection, great losses were sustained. Difficulties of the same nature attended private transactions. Money was not to be had for the purposes of traveling, or distant remittances. Creditors exacting specie from their debtors could obtain their property almost upon their own terms: when willing to receive their demands in paper they had no means of ascertaining its value, or of determining whether it was worth any thing.

*Proposition for a national bank.* The secretary of the treasury, after giving a minute detail of the state of the finances, pointed out the embarrassments to which the treasury, as well as the community, was subject, in consequence of the want of a circulating medium of a uniform value; and recommended the establishment of a national bank. The question whether congress possessed the constitutional power to create such an institution, had undergone many critical and elaborate discussions in congress, and before the highest judicial authorities; and had resulted in a settled



opinion in the affirmative. It was not claimed that there was any clause in the constitution, conferring this power on congress, in express terms. But under the clause in the preamble, declaring the object of the instrument to be, to promote the general welfare, and that clause in the body of the constitution, which confers the power of making all laws necessary and proper to carry into effect the powers specifically delegated, the power of creating banking institutions was claimed to be included, as a necessary and proper measure, to conduct the financial concerns of the nation. The administrators of the government, in the construction of their own powers, have at all times given them the most liberal interpretation, and under these general clauses, have extended them to almost every case on which it was judged convenient to legislate.

*Charter of 1791.* At the commencement of the government, the secretary of the treasury, in an elaborate communication to congress, pointed out the utility, necessity, and constitutionality of a national bank; which led to the establishment of one, limited in its duration to twenty years, in 1791. At the expiration of that charter, the administration of the government had passed into other hands. The general utility of the institution had been tested by experience; and the rapidly increasing commerce and revenue of the country seemed to require its continuance. But such a moneyed institution was found to possess an extensive political influence. The borrower generally finds it necessary to subserve the views of the lender. He very naturally apprehends that accommodations will more readily be granted him, when he favors, than when he opposes those views. The control of millions of dollars to be loaned for individual accommodation, at this bank, was now in the hands of the party opposed to the administration, and might, it was apprehended, be used to their disadvantage. The administrators of the government in 1811, had, when out of place, been advocates for a limited construction of the constitution. To quiet their fears, and prevent an extraordinary extension of the powers of that instrument, an amendment had been made, providing, that "the powers, not delegated to the United States, nor prohibited by it to the states, were reserved to the states respectively, or to the people." Under this amendment they contended for a strict construction of the constitution; and that no such necessity for a bank existed as the last clause contemplated, under which it was claimed the power was granted. An application, made to

the congress in 1811, for the renewal of the charter, was unsuccessful, and it was suffered to expire without a substitute. During the extensive financial operations, to which the war, which soon afterwards ensued, gave occasion, the want of such an institution was severely felt ; but it was now to be created, if at all, by those who in 1791 opposed the measure on constitutional grounds ; and in 1811 refused to renew the charter. Its manifest necessity, however, overcome constitutional scruples, and the pride of opinion, both in the legislative and executive branches of the government.

*Propositions for a new bank.* At the third session of the thirteenth congress, a bill passed both houses for the establishment of a national bank ; but owing to a difference of opinion between them and the president, relating to some of its important features, it failed of becoming a law. The plan now recommended by the secretary, did not essentially vary from that adopted by the last congress. The objects proposed, were,

A profitable investment of a portion of the public stock :

A safe and convenient deposit for the revenue :

The transmission of the public moneys from the places of collection to those of disbursement, without expense or risk to the treasury ;

And the establishment of a uniform circulating medium throughout the United States.

On the general question, of the establishment of a bank, there was but little diversity of opinion. After much debate on its details, an act passed both houses, and was approved by the president on the 10th of April, 1816, to establish a national bank. Its principal features, were,

*Terms of the charter.* That its capital should consist of thirty-five millions of dollars, seven in specie, and twenty eight in funded debt of the United States :

That the secretary of the treasury should subscribe seven millions in behalf of the United States, payable wholly in public stock ;

That the subscriptions of individuals should be payable, one quarter in specie, and the residue in stock, thirty per cent. at the time of subscribing, thirty-five on the 1st of July, 1816, and thirty-five on the first day of the succeeding January :

That the bank should be the exclusive depository of the public funds, and no other should be chartered during its continuance :

That it should be located at Philadelphia, under the superintendence of twenty-five directors, five to be appointed by the president, and twenty by the stockholders; the president of the bank to be appointed by the directors from among those who were appointed on the part of the government; and,

That the bank should have power to establish branches in any part of the United States, at the discretion of the directors.

For these exclusive privileges, the bank was to pay into the treasury, a bonus of one million and a half of dollars; to perform the duties of the office of commissioner of loans, in the several states, and transmit the government funds to any places in the United States where they might be required, free of expense to the treasury.

*Subscriptions filled.* Subscriptions were opened at the seat of government, and at a principal city in each of the United States, on the 1st of July, and continued for twenty days; on the return of the subscriptions to the commissioners at Philadelphia, it appeared there was a deficiency of \$3,088,300 to complete the required capital. This was immediately subscribed by Stephen Girard, of Philadelphia; and the bank commenced its operations on the 1st of January following.

*Debate on the commercial convention.* When the subject of the commercial convention between Great Britain and the United States came before congress, the senate passed a bill, in general terms declaring, that all laws inconsistent with that treaty were repealed. In the house of representatives, a bill was introduced incorporating the principal stipulations of the convention into an act of congress. The object and effect of both bills were the same; but their different phraseology led to an interesting discussion between the two houses, on the subject of the treaty-making power, and revived, in some degree, the questions agitated in 1795, on the subject of Jay's treaty, when the house of representatives claimed of the president, an exhibition of the papers, relating to the negotiation, and insisted on the right of withholding the appropriations necessary to carry that treaty into effect. In the present instance, the bill from the senate imported, that the treaty itself, independent of any legislative provisions, repealed all laws inconsistent with its tenor; that of the house, implied the necessity of a legislative repeal of the laws, imposing discriminating duties in relation to Great Britain. In a conference between committees

of both houses, some concessions were made on either part, and the act, as finally passed, amounted to little more than a declaration of the constitutional effect of the treaty.

*Admission of Indiana.* An act was passed, authorizing the people of the Indiana territory to form a state constitution, and providing for their admission into the union, with the privilege of one representative in congress, until the next census. The act provides,

That one section of six hundred and forty acres in each township of six miles square of the unsold lands, should be granted to the inhabitants of such township for the use of schools :

That all salt springs within the territory, with lands for the use of the same, not exceeding in the whole twenty three thousand and fifty acres, should be granted to the state for the use of the people :

That five per cent. of the net proceeds of the sale of all the public lands in the territory, should be appropriated to making roads and canals ; three-fifths to be expended within the state, and the residue without, in roads leading to it, under the direction of congress. And,

That two thousand five hundred and sixty acres be granted to the state, for the purpose of fixing the seat of government thereon, to be located in such place as the legislature should direct. These liberal provisions had a salutary effect in encouraging settlements, and enhancing the value of the lands still retained by the United States in the territory.

*Presidential caucus.* The foregoing are the principal legitimate acts of the first session of the fourteenth congress. Their measures, with the exception of the compensation law, met with the general approbation of their constituents. One spurious and unhallowed act of a small majority of the members was considered by a large part of the community as highly derogatory to the rights of the citizens, and subversive of the best principles of the constitution. The second period of Mr. Madison's presidency would terminate on the 3d of March, 1817, and the appointment of electors in the several states for the choice of his successor would intervene between the first and second sessions of the fourteenth congress. It had become an established principle that the same person should not hold the office more than two terms, and in accordance thereto Mr. Madison was not considered a candidate. The approaching presidential election became a matter of deep interest. To a correct mind,

uninfluenced by the splendors of royalty, the office of president of the United States appears the most honorable of any that can be sustained by man. There is no intrinsic merit or honor in being born a king, but to be elected to the chief magistracy of ten millions of people by their free suffrages, is the highest attainment. The framers of the American constitution manifested great solicitude to separate the legislative and executive branches of the government, and render them mutually independent, that each might proceed to the discharge of its high duties uninfluenced by the other. With this view the instrument ordains "that no senator or representative, or person holding an office of trust or profit under the United States, should be appointed an elector, and that no member of either branch of the legislature should, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which should have been created or the emoluments whereof should have been increased during such times; and that no person holding any office under the United States should be a member of either branch of the legislature, during his continuance in office." While Washington consented to preside over the destinies of the nation, these provisions of the constitution were adhered to in their spirit as well as letter. Opposition to his election was hopeless. On his retirement, the presidency, having in its gift several hundred lucrative offices, became an object of great intrigue and cupidity. Not only the candidate himself but all expectants of office under him, became zealously engaged in the cause. The United States had become divided into, and nearly equally balanced between, two great political parties. In the succeeding presidential elections, it became a matter of interesting concern for each party to concentrate their votes on a particular candidate; otherwise they were sure to fail. This formed an apology for the members of congress to overleap the spirit of the constitution by interfering in those elections. Assembled from all parts of the union, they considered themselves possessed of the public sentiment, and able to give it a united direction. For this purpose the members of congress of either party assembled in what was denominated a caucus and designated their respective candidates for the presidency. The seeming necessity of the case, while there was a balancing of parties, kept out of view the hazardous nature of the measure; and it was resorted to, when a new president was to be elected, in case danger was apprehended from a candidate

of the opposite party. It requires but a slender acquaintance with the human character to learn, that ambition is a powerful operator on the minds of men in high stations ; that this principle seeks the attainment of its object, by means adapted to the end, be they honorable or base, justifiable or criminal ; and that whenever mankind become enslaved, it is through the mad ambition of man seeking his own aggrandizement in the ruin of liberty. In the season of canvassing for the presidential election in congressional caucus, the candidates are always found at Washington : they are usually members of congress or of the cabinet ; but if not, they are sure to be there. They know the members most active in making the nominations, and the means by which their integrity may be assailed. These may be expected to be applied. The candidate having the highest honor that can be bestowed on man in view, must be something more than human to withstand the temptation. While these congressional caucuses are endured, the people have no barrier to protect their liberties from destruction, but a fancied incorruptible integrity which does not exist in human nature. In the expected change of the presidency in 1817, the two prominent candidates were of the same political party, both high in the estimation of the people ; one at the head of the state, and the other of the treasury department, and standing on nearly equal ground. The original reason for holding caucuses on the subject of the presidential election had ceased ; and a respectable portion of the national representation were desirous that the practice should cease with it. They correctly viewed it, as violating the spirit of the constitution, assuming to themselves a power wisely intrusted to other hands, and sacrificing the proper objects of legislation to cabal and intrigue. The first congress under the constitution, with great sagacity, had provided that the electors in the several states should be chosen within thirty-four days of the time fixed for giving in their suffrages, with the express view of preventing any intercourse between them and the candidates, but this precaution would most effectually be defeated, if the members of congress could erect themselves into an electoral college. While these self-created electors and the candidates were in the habit of daily intercourse, none could tell the bribery, the corrupt bargains, the great sacrifices of public interest that might be made at the shrine of ambition. Considerations of this nature had much influence, but did not entirely prevent a meeting on the subject of the approaching presidential election.

*Meeting on the 16th of February.* On Sunday the 10th of February, an anonymous notice in a printed form, addressed to the republican members of congress, was handed to each one, stating that a meeting would be held in the hall of the house of representatives on the following Tuesday evening to take into consideration the propriety of nominating persons as candidates for the offices of president and vice president of the United States. In pursuance of this notice fifty-eight members assembled, and having organized themselves by the choice of a chairman and secretary, resolved, "that in order to obtain a more general expression of the republicans relative to the approaching presidential election, the republican senators, representatives, and delegates be invited and requested to assemble at this place on the next Saturday evening, and that this invitation be given by publishing this resolution, signed by the chairman and secretary, in the newspapers of the city." At the second meeting, one hundred and nineteen members attended, and chose a new chairman and secretary. Mr. Clay introduced a resolution, declaring it to be "inexpedient to make in caucus any recommendation to the good people of the United States of persons in the judgment of this meeting fit and suitable to fill the offices of president and vice president of the United States." The question on this resolution was determined in the negative. Mr. Taylor, of New York, then introduced a resolution declaring that the practice of nominating candidates for the offices of president and vice president of the United States by a convention of the senators and representatives in congress was inexpedient, and ought not to be continued. This was also determined in the negative, and the meeting proceeded to ballot. The result was for the presidency, sixty-five votes for James Monroe, and fifty-four for William H. Crawford; and for vice president, eighty-five for Daniel D. Tompkins, and thirty for Simon Snyder. The following resolutions were then introduced by Mr. Clay, and concurred in without opposition:

"Resolved, That this meeting do recommend to the people of the United States James Monroe, of Virginia, as a suitable person for the office of president, and Daniel D. Tompkins, of New York, as a suitable person for the office of vice president of the United States, for the term of four years, commencing on the fourth of March, 1817. And

"That the chairman and secretary be appointed to ascertain from the persons above mentioned whether they are disposed to serve in the offices respectively designated."

*Effects on other elections.* The most enlightened and virtuous portion of the American public, viewed this measure as one of the most dangerous tendency. The example is contagious. The mischiefs of the caucus system pervade not only the presidential election, but all the subordinate branches of government. The honors and emoluments of office excite the strongest cupidities of the citizen. None are so insignificant as not to attract the attention of some. They are open to all, but all cannot be gratified. At the return of the election periods, the unsuccessful were constantly endeavoring to get, and the successful to keep possession. Hence arises a political warfare of a virulent character. To concentrate and marshal their forces, the leaders of the ins and outs hold these clandestine meetings, at which the question is not, what candidate is best qualified for office, but who will best promote the views of the party. The candidate being selected, the next question is, by what means can his election be secured; the character of these means is not regarded, so be it that they appear adapted to the end. Electors sworn to give their suffrages, as they in their consciences believe will conduce to the best good of the commonwealth, are seen pressing to the polls with the utmost eagerness to carry into effect the edict of some private caucus, whether the candidate is known to them or not, whether qualified for the office or otherwise. This forms no part of the inquiry. This disorder appears in some measure incident to the representative system, not peculiar to any party or period, and to be of such an incurable nature as to threaten the ultimate destruction of the body to which it is attached. The high minded citizen of every party, whose integrity and talents afford the best security for the faithful discharge of public trusts, ashamed of the practice, retires from the scene, and leaves the field to the unprincipled, the ambitious, and designing. Offices obtained by corrupt means are seldom well executed: they are made to subserve private views; the commonwealth suffers; the people, becoming dissatisfied, require a change, and prefer any form of government to that which places their most important interests in the hands of such administrators. It was an unfortunate circumstance, that when this disorder was at its highest pitch in the United States, it should have been sanctioned by the example of the national legislature. Americans exclaim against the bribery and corruptions of English elections. Their rotten boroughs and tumultuous and venal elections, are proverbial with the people of



the United States ; but the latter should consider, that when they give their vote for a candidate imposed upon them by a caucus nomination, they as effectually barter away their rights and violate their oaths, as the Englishman who receives a guinea for his suffrage. The difference is only in name ; the effects on the purity and independence of elections, and the aid afforded to unprincipled and unqualified men to obtain office, are the same. Happily for the people, however, the remedy is in their own hands. Let them discard caucus nominations, and at the polls consider them as a disqualification for office ; and cabals, corrupt bargains, and a host of evils will disappear.

## CHAPTER III.

Pecuniary embarrassments subsequent to the war; their causes—Emigration—Different classes of emigrants—State of parties after the peace—Claims of American citizens on foreign governments—On England—France—Spain—Naples—and Holland—Their estimated amount—Negotiations for their settlement—The arguments by which they were supported and resisted.

*Pecuniary embarrassments.* A variety of circumstances, as is usual, rendered the period immediately succeeding the war a time of great pecuniary embarrassment; the consequence of which was a general change of property from the possession of the improvident speculator and extravagant consumer, to the hands of the wary capitalist. Previous to the arrival of the treaty of peace, in Feb. 1815, the latest intelligence from the negotiators at Ghent, indicated the continuance of the contest for an indefinite period. Relying on a protracted war, large dealers exhausted their funds and credit, in attempting to monopolize the principal foreign articles of consumption. The unexpected, and to them unwelcome news of peace, bankrupted hundreds of this character. The high prices which land, labor, and most of their productions had borne during the war, encouraged the contracting of debts; the debtors relying on a continuance of the same prices, when they should be called upon to discharge them. A sudden and unlooked for depression of nearly a hundred per cent. in the prices of most commodities, embarrassed this class of citizens to a great extent. The readiness too, with which the banks which had suspended specie payments, loaned their paper, brought to their counters a constant stream of customers, some to obtain loans for hazardous speculations; others to relieve their present wants. Here they exchanged their own notes with indorsers bearing interest, and payable in specie, for the depreciated paper of the bank, bearing no interest. The period had now arrived, when these banks found it necessary to redeem their credit, by resuming specie payments; for this purpose they were obliged to curtail their discounts, and call upon the improvident borrowers for heavy instalments, when the productions of the country were low, money scarce, and the value of bank paper

rapidly rising. This was a period of general embarrassment among bank debtors.

§ The failure of adventurous speculators and imprudent borrowers, excited but little sympathy. No real wealth was lost to the community. The operation was a mere transfer of property into more provident hands; but in the depression of the manufacturing interest, a serious public loss was felt.

*Depression of manufactures.* The United States, possessing a rich vacant territory of almost unlimited extent, accessible to all, are an agricultural, rather than a manufacturing nation. The British manufacturer, aided by labor-saving machinery brought to the highest point of perfection, and always able to procure laborers at the lowest wages that will support animal life, can supply manufactures at a cheaper rate than the American. Hence, antecedent to the period of the restrictive system, the great mass of manufactures consumed in the United States, was derived from Great Britain. During that period, and the consequent war, foreign goods were attainable only in insufficient quantities, and at high prices. The inconvenience of depending on a foreign supply, being severely felt, led to the investment of much unemployed capital in manufacturing establishments. The facility with which water power, sufficient for these purposes, was obtainable in various sections of the country, strongly invited to this object. During the war this capital was very productive; but at its close the British manufacturers having large quantities of goods on hand, adapted and originally destined to the American market, poured them into the country to an amount far beyond the wants of the people, or their ability to pay, with a double view of vending their goods, and ruining the rival establishments of the United States. Many of these goods, after being warehoused a considerable time, were sold at auction at less than their first cost, and often at little more than to pay the freight and duties. Improvident people, allured by the apparent cheapness of goods, were induced to make unnecessary purchases. The goods destined to the American auctions were handsomely finished, but of the cheapest materials and texture. The operation had in a great degree its designed effect; most of the considerable manufacturing establishments were obliged to stop, and many of the proprietors failed. This state of things commenced in 1815; its effects were more severely felt in the two succeeding years, and continued until con-

gress, by a judicious arrangement of the tariff, in some measure relieved the manufacturing interest, and the people learning wisdom by experience, retrieved their circumstances by substituting a prudent use of domestic articles, for an extravagant consumption of foreign.

*Emigration.* Another characteristic of the period immediately succeeding the war, and occasioned in a great measure by it, was an unprecedented tide of emigration to the west and southwest. Those regions had been traversed in almost every direction by American troops in pursuit of Indians, by means of which they became acquainted with their value. The destruction or complete subjugation of the Indian tribes, rendered the country more secure from their incursions than at any former period. The lands were now obtainable on moderate terms, and long credit. Congress had adopted the policy of selling them in small sections, to encourage settlement rather than speculation. Large portions of them were locating to satisfy the bounties promised to the soldiers at the close of the war.

The citizen of the east, whose circumstances had become embarrassed in consequence of the war, or from other causes, looked to this region as a place of refuge from his troubles. He had to choose between remaining at home, harassed with debts, seeing his more fortunate neighbors enjoying affluence—himself and family in want, and before him the prospect of an old age of poverty; and of abandoning his home, and the remaining comforts of improved society, in the land of his fathers, and seeking a refuge in the wilderness. The latter alternative presented the prospect of years of hard labor and hard fare, but an ultimate competency and independence. This was the choice of many, who, saving a small sum from the wreck of their property, retired to the west, and there acquired the means of a comfortable support. Many, whose circumstances were entirely hopeless, hid themselves from their creditors in the wilderness. Another class of emigrants were young, ambitious politicians, who sought fame, distinction, and political honors in the new settlements, where competitors were less able and less numerous. The tranquil state of Europe, succeeding the peace of 1815, brought numerous cargoes of emigrants to the American shores, who sought a refuge from starvation in the unsettled regions of the west. From these and various other sources, six new states grew up in the course

of ten years.\* The settlers at first formed a motley society, of every character and description, and of different and discordant habits and views. By a constant intercourse, frequent intermarriages, a community of wants, and associations for various purposes the inhabitants soon became acquainted with and assimilated to each other, and formed a general character, compounded of the whole mass. Many times, indeed, large companies emigrated from the same neighborhood, settled in the same town, and gave to their society the peculiar cast of the region from which they removed. Various advantages resulted from this mode. The emigrant still found himself among his neighbors and friends; a proportion of necessary mechanics and school and religious teachers usually formed the company. Associations were readily formed, which secured to the emigrants in their new settlement many of the advantages of the old. In general, the rapid improvement of their own lands, and of the country around them, and the prospect of acquiring a permanent support for themselves and families, reconciled the emigrants to their situation, and rendered them contented and happy. Sometimes, indeed, individuals were to be found, who, not being able to bring themselves to submit to the inconveniences and deprivations incident to a new settlement, would retrace their steps, and, returning disappointed and impoverished, picture in frightful terms the horrors of the western wilderness. The settlers, anxious to increase their numbers by new emigrations, would represent their country as the garden of the world. The new settlements rapidly advanced. Convenient roads, mills, mechanics of various kinds, school-houses, churches, and the other incidents of improved society, soon began to appear, and assimilate the condition of the new country to the old.

*Amelioration of party spirit.* The great political parties into which the United States had been divided from the commencement of their government, began soon after the close of the war to lose much of their asperity; and to unite in supporting the administration. Few or no questions arose to revive old controversies. The affairs of the nation, though almost exclusively managed by one party, it was claimed by the other, were now conducted upon principles which they had always advocated. The period seemed at length to have arrived, which was viewed by a former president as a future event devoutly to be wished, when the only

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\* Louisiana, Indiana, Mississippi, Illinois, Alabama, Missouri.

inquiries relating to a candidate for office might be, "Is he honest? Is he capable?" and when integrity and talents should be the indispensable requisites. Both parties now agreed that the constitution was the most perfect instrument ever devised by man. One had administered it twelve, and the other sixteen years. On most great national questions they had acted alike. Both had established a bank, and had extended their powers by implication, to every subject on which they found it convenient to legislate. The useless offices, and high salaries, which once afforded a fruitful theme of declamation against the party in power, their successors had increased. The two great European powers to which each party accused the other of being attached, to the prejudice of their own country, had become friends; the various questions to which the late war, in its origin and progress, had given rise, had ceased to be of any practical importance. Both parties sincerely rejoiced at the return of peace. One indeed claimed that the war had terminated gloriously, and that America had obtained every thing for which she fought; while the other contended that nothing had been obtained; no satisfaction for past injuries, or recognition of neutral rights, which should be a protection in future wars; and that even a positive loss had been sustained in regard to the right of fishing on the British North American coast. These, however, had now become questions of mere speculation, tending to no practical result. The treaty had been negotiated by distinguished individuals of both parties: it was the best that could be obtained, and far preferable, in the opinion of all, to a continuance of the war. Both parties agreed, that the country ought to be placed in a respectable attitude of defense. That it was unsafe to rely upon a system of commercial restrictions, or a navy of gunboats for the protection of neutral rights; but that a chain of fortifications, at the most assailable points, and a respectable navy, afforded the only adequate security. That in its foreign relations, the nation should do equal and exact justice to all, without submitting to the unfounded pretensions of any. It seemed to be admitted, though with some reluctance on the part of the opposition, that government, in the general tenor of their measures, were pursuing these objects. Party spirit then resolved itself into a mere question of office holding, and was kept alive only for the purpose of aiding those who were seeking to obtain or hold the lucrative offices of government.

*Claims for spoliation.* The claims of American citizens for commercial spoliation on the belligerent Europeans, attracted the early and constant attention of their government. In the early stages of the European contest, the two great belligerents adopted a principle in relation to neutrals of a character the most iniquitous and subversive of their rights, viz. that when one belligerent violated the rights of a neutral nation, to the injury of his antagonist; if the neutral submitted to it, rather than go to war to obtain redress, the other might retaliate on the neutral for such injury. In consequence of this principle being carried to a most alarming extent, and of the utter disregard which France, England, and the subordinate powers in other particulars, paid to neutral rights, during the long period that the United States maintained their neutrality, these claims accumulated to an amount, variously estimated, from thirty to fifty millions of dollars. They had been repeatedly pressed upon the belligerents, in almost every shape, without success. England, in consequence of her naval ascendancy, was much the greatest aggressor. One of the prominent objects of the war of 1812, was to obtain satisfaction from her. That war extinguished the claims, without compensating the suffering merchants. In settling the terms of a general pacification in 1815, the European powers adopted and enforced the principle against France, that the injuries which one government committed, or suffered its subjects to commit against the rights of another nation or its subjects, should be compensated by the nation under whose authority the injury was inflicted; and that the obligation always continued against the persons in possession of the sovereign power, notwithstanding any revolutions which might have taken place in the government. On this principle, the allied powers taxed France, under Louis the XVIII., not only with the sum of seven hundred millions of francs, the estimated expense of his restoration, but obliged her to make compensation for losses sustained, and injuries done to the subjects of other states, in all stages of her revolution. Englishmen were remunerated for losses sustained by assignats, while France was governed by the executioners of her former sovereign. The capital of the bank of Hamburg, one of the richest in Europe, which was carried off by Davoust, under the orders of Napoleon, was restored by Louis the XVIII. Instances were almost without number, where the claims of European powers and their subjects against France, originating under every form of her government, were en-

forced against her present monarch with a rigorous exactness.

*Claims against France.* The American nation were highly gratified to see principles so congenial to justice, and so favorable to their long existing claims, adopted by the European powers, and cherished the hope that their just demands, so often evaded and so long delayed, would be satisfied. The claims for French spoliations were of two classes, one prior, and the other subsequent to the convention of 1800. The first had arisen to a considerable amount previous to the year 1798, and the subject of them, together with the manner in which the envoys who were sent to enforce them were treated, constituted the causes which led to a species of war between France and the United States in that year. In the negotiations which terminated in the convention of 1800, by which that war was closed, France met these claims by a list of counter-demands against the United States, the most prominent of which was, that by the treaty of alliance of 1778 America had bound herself to guaranty to France her West India possessions, and that Great Britain had wrested them from her without an effort on the part of the United States to prevent it. The French commissioners claimed that the guaranty being general, the guarantor was bound to protect the warranted property with all his force; and that the United States had seen these possessions in their immediate neighborhood taken from France without even uttering a remonstrance against it. After many fruitless attempts to adjust pre-existing claims on either hand, the negotiators postponed the whole subject, and formed a convention regulating only the future conduct and relation of the parties to each other. The second article, as it was originally drawn and accepted by Bonaparte, provided that a negotiation upon the subject of past claims should be resumed at some future period. The senate refused their assent to this article, and advised to a conditional ratification by which it should be expunged. Bonaparte accepted this ratification on condition that the expunging of this article should be considered as an abandonment of all claims on either side prior to the date of the convention. This proceeding barred all claims which the citizens of the United States had on the French government prior to September, A. D. 1800.

This class of claimants now press their demands upon their own government. They say their just claims on France have been bartered away by the United States for a



relinquishment of the West India guaranty. That this was a subsisting claim of great magnitude, and exceedingly onerous to the United States as they could not refuse it with honor, or fulfil it without hazarding a war with Great Britain; and that a discharge from this liability would be cheaply purchased by a sum sufficient to satisfy all their claims. These demands have been resisted by congress on the ground, that the duty of the government to protect its citizens in their pursuits, when they chose to go beyond the limits of the national domain, extends no further than to remonstrate and demand satisfaction of the nation committing the injury. That no principle of public law obliges the nation to which the sufferer belongs to pay for the spoliations, or to go to war to obtain redress. That in this case the government had done every thing in their power, and more than upon any principle they were bound to do for these citizens: they had remonstrated until their envoys were sent away with disgrace; and then commenced a naval warfare at a great national expense in support of their claims; that they had become entirely hopeless and of no value, at the time the convention was formed. The question between the government and these claimants is still undecided.

The spoliations from 1800 to 1803 were provided for in the Louisiana treaty, one stipulation of which was, that the United States should pay their citizens five millions of dollars as part of the purchase money in satisfaction of those claims. The demands subsequent to that period, arising from illegal captures and condemnations, under the Berlin and Milan decrees, burning vessels at sea, and various other sources, are still a subject of negotiation.

*Mr. Gallatin's negotiation.* In the year 1816, Mr. Gallatin was appointed minister plenipotentiary to the French government and specially charged to enforce these claims. The ministers of Louis XVIII. reluctantly admitted the principle that their monarch was liable for injuries done while his enemies held the reins of government. Their first excuse for not attending to the American claims, was that the European demands were so much more pressing and even compulsory upon them that they had no time for the consideration of the other. After those had been allowed, and provision made for their extinguishment, Mr. Gallatin again pressed the subject with great earnestness, urging that the period had arrived, when, according to the French minister's own suggestion, the American claims

were to be taken into consideration : that they were fully embraced within the principles adopted in relation to other nations : and that their magnitude, and long standing entitled them to a speedy adjustment. This application was met with a reply, that the European claims, which they were compelled by a superior force to admit, so far exceeded in amount anything that was contemplated, that their treasury was altogether unable to meet any further demands. To this objection Mr. Gallatin answered that the American claims were entitled to, at least, an equal degree of consideration : that their fiscal embarrassments, could form no objection to an adjustment of the claims, postponing the time of payment, to a period, which should better suit the state of their treasury. This proposition was also refused ; and every artifice resorted to by a succession of French ministers, to avoid the demands. A protracted negotiation, of several years, conducted with great ability, on the part of Mr. Gallatin, terminating unsuccessfully, afforded little hope of an ultimate remuneration. France having no territory accessible to the United States, and no vulnerable points, compulsion cannot be resorted to, and a reliance on a sense of justice in the French ministry, promises but little.

*Claims on Spain.* The claims on Spain, also divided themselves into two classes. One for spoiliations, committed by the Spanish government, or its subjects, by its authority. The question as to the liability of the nation, under one set of rulers, for injuries committed while governed by another, being disposed of, no subject of discussion remained, in relation to these claims, but as to the amount, and mode of payment. The other class related to the seizure, and capture of American vessels, by French cruisers in Spanish waters ; and their condemnation by French consuls, holding prize courts, in Spanish ports. During the greater part of the period, in which Great Britain and France were at war, and while both powers were depredating on American commerce, Spain was under the control of France. The legitimate Spanish monarch, with his family, and heir apparent, was enticed into France, under the pretence of friendship, there made prisoners by Napoleon, and Joseph Bonaparte placed on the throne. The Spanish American coasts, and borders, were made use of by French cruisers, to depredate on American commerce. More than two hundred vessels fell a sacrifice to this system, and were libeled and condemned by French consuls, on Spanish territory. This proceeding was without pretext

on the part of France. Vessels taken on neutral ground, where even one enemy cannot attack another, without a breach of the law of nations, could, on no pretence be subject of cendemnation. These claims pressed themselves on the French government with peculiar force: and it would seem much more consonant to the principles of justice, to seek redress from the nation which had committed the injury, and was enjoying its fruits, than from one, who had merely suffered it to be done within her territory, and who was wholly destitute of the means of preventing it. But the prospect of obtaining satisfaction from France was hopeless; and America must put up with the loss, or make reclamations from Spain. In resorting to this nation, the prospect, on many grounds, promised a favorable result. She had rich territories, which she was unable to defend, within the reach of American arms; and a valuable commerce, passing near the coast, and affording an extensive field for the enterprise of American citizens. Poor, exhausted Spain must pay for French depredations, within her waters, which she could not prevent; or hazard a war, in which the loss of a fair portion of her territory, must be the inevitable result.

*Ground of claims on Spain.* The American government grounded their claim for remuneration from Spain, on a principle of national law, which entitles the property of a stranger, within the jurisdiction of a country in amity with his own, to the protection of its sovereign by all the means in his power; and upon an express stipulation in the treaty of 1795, which provided, "that each party should endeavor by all the means in its power, to protect and defend all vessels and other effects, belonging to the citizens or subjects of the other, which shall be within the extent of their jurisdiction by sea or land, and shall use all their efforts to recover, and cause to be restored to the right owners, their vessels and effects, which may have been taken from them within the extent of their jurisdiction, whether they are at war or not with the power, whose subjects have taken possession of their effects."

This article, the American negotiator claimed as expressly designed to explain, and enforce the principle of national law, and to provide for the cases in question. When American property was taken by French cruisers, and brought within the jurisdiction of Spain, she then had the power of restoring it to the right owners, and not having done it, she was bound to make them compensation.

*Spanish objections.* The Spanish minister resisted these claims, on the ground, that his government had done all in its power to prevent the injury complained of: that France and Spain, being then in alliance, and both at war with Great Britain, her ports were necessarily open to French cruisers. That if French consuls had, in some instances, condemned American vessels in Spanish ports, as English appeals frequently had been, and might always be taken, to the higher tribunals in France, from whence the injury originated, and where it was consummated. That nation, not being at war with the United States, her courts were always open for redress of injuries committed by her subjects on their citizens. The Spanish minister further claimed, that for all injuries antecedent to the year 1803, satisfaction had been obtained from France, by the Louisiana treaty, and adduced the declaration of the French minister Talleyrand to that effect; and offered the friendly offices of Spain to obtain from France indemnity for the injuries, which still remained unsatisfied. He also adduced a long list of counter claims against the United States, and offered to submit all the subjects of controversy between the two nations, to the mediation of some friendly power; whose decision should be conclusive thereon.

*Reference to a third power refused.* The American government declined this reference, on the ground that it had ever been the policy, both of Europe and the United States, to keep aloof from the general federative system of each other, and that the European states were combined together by a multitude of important interests and relations, with which the United States had no concern, and had no disposition to interfere, and of which no communication having been made by these powers, the United States had no information competent to enable them to estimate their extent and bearings.

*Floridas.* The American government had always looked to the Floridas, as the means of obtaining satisfaction from Spain. Circumstances were constantly occurring which rendered those provinces less valuable to Spain, and the possession of them more important to the United States. Towards the close of the negotiation, the Spanish authority in those provinces, had to every practical purpose ceased; and they had become the receptacle of a mixed population of an abandoned character, calculated to annoy the settlements of the United States, approaching the Florida border. A protracted negotiation of twenty years terminated in a

treaty, by which the Floridas were ceded to the United States, for which they were to pay their citizens five millions of dollars, in satisfaction of all their claims on Spain.

*Claim on Naples.* In the year 1809, while Murat was tenant of the kingdom of the two Sicilies under Napoleon, his minister of foreign affairs addressed a note to the consul of the United States, giving an official invitation to American vessels, with regular papers, to visit his ports. A number of them being decoyed into his power by this stratagem, they were seized and sequestered, under the Berlin and Milan decrees, their cargoes sold for the benefit of the government, and some of the vessels taken into public service, where they remained until the restoration of Ferdinand. The American property in this condition, amounted to several millions of dollars. On the re-establishment of tranquility in Europe, the American government perceiving, as they supposed, some flattering indications of a return to correct principles, determined on a special mission to Naples, to make reclamation.

*Mr. Pinkney's mission.* Mr. Pinkney of Baltimore, was selected for this purpose, and at the same time appointed minister to Russia. He arrived at Naples in July, 1816, in the *Washington 74*, and on the 27th of that month, addressed a note to the Marquis di Circello, informing him of his arrival, and the object of his visit. The appearance of an American 74, in the bay of Naples, bearing a minister of Mr. Pinkney's character, on such an errand, occasioned very unpleasant, and somewhat alarming sensations in the Neapolitan government. Couriers were immediately despatched to the Emperors of Austria and Russia, to ascertain whether they would support Naples in refusing to pay the American claims. In the mean time, Mr. Pinkney was to be amused with the semblance of a negotiation. On the 31st of July he had his audience; and on the 28th of August presented a note containing a minute statement of the claims of his countrymen, and the grounds on which they rested. After waiting a month without receiving an answer, he obtained an interview with the minister, who told him that a reply had necessarily been delayed, for the purpose of collecting the papers relative to the confiscations complained of, and to ascertain their amount, which could not be under several weeks. Mr. Pinkney waited until the 31st of October, when he was obliged to leave Naples for the place of his ultimate destination, without receiving any answer to his demands. In the mean time, the Neapolitan go-

vernment received such advice from the courts of Austria and Russia, as induced them to reject the American claims. Immediately after Mr. Pinkney's departure, the minister's reply was finished, and transmitted to Petersburg, where it arrived some days before him. It was also sent to Mr. Gallatin, at Paris.

*Reasons for their rejection.* It contained a refusal, on several grounds, first, that Monsieur Murat, as he was termed, was a usurper, and that the legitimate sovereign was at war with him, and not bound to discharge his obligations; secondly, that the confiscations for which indemnity is sought, were not the acts of Murat, but were forced upon him by the violent interference of Napoleon; thirdly, that the proceeds of the confiscated property never reached the national treasury, but went into the private chest of Murat, to furnish the means of his profusion. The king of Naples, a man of blunt and familiar manners, used to say to the American consul, when pressing these claims, "Why, Monsieur Murat took your ships its true; but he also took my kingdom. I suffered more than you did. I lost all; and shall I besides my own losses, have your's to bear also?" The substance of the Neapolitan dispatches, though not opened by Mr. Pinkney, found their way into the gazettes of Petersburg and Vienna. The government of the United States having no means of enforcing the claims of their citizens, but by a hazardous and unprofitable contest with the king of the two Sicilies, supported, as he doubtless would be, by the emperors of Russia and Austria, can do nothing more than to keep up a perpetual demand; for this purpose Mr. Appleton has recently been dispatched to Naples; but the prospect of success diminishes in proportion to the distance of time from the date of the injury.

*Claims on the Netherlands.* In the year 1815, Mr. Eustis was appointed minister to the king of the Netherlands, and instructed to claim indemnity for the confiscations in the years 1809 and 10, under Louis Bonaparte. In his first note upon the subject, without entering into an argument, he simply stated that the American claims rested on the principle so fully recognized by the governments of Europe; that nations were responsible for the acts of their rulers; and that any changes in the forms of their government cannot diminish the force of the obligation. The Dutch minister, Baron De Nogell, refused to acknowledge the claim on two grounds; first, that the acts complained

of were not done by the Dutch government, but by Napoleon, who had the benefit of the confiscation, and whatever claim the United States may have, it must be against his successor, the present king of France; secondly, that if the seizures were to be considered as done by Louis Bonaparte, they were the acts of a usurper, for which the legitimate sovereign is not responsible. In the spring of 1816, Mr. Eustis was again instructed to renew the claim, and enforce it on the principles of indemnity, of which the government of the Netherlands had recently experienced the benefits. A correspondence immediately ensued, in which the American claims were ably enforced, and two of the most prominent cases selected for consideration. One, the ship *Bacchus*, which being ordered off by the Dutch government in 1809, was wrecked in getting out of the harbor. Her cargo being saved, it was sequestered, and finally ceded to Napoleon. The other, the *Baltimore*, which, after having received a protection, and license to enter a Dutch port, was seized, and her cargo, consisting of colonial produce, ceded to France. The Baron De Nogell now resisted all claims of this character, on the ground, that at the time the seizures were made, there in fact existed in Holland no government distinct from that of France; claiming that Louis was so much under the control of Napoleon, that he could in no sense be considered as the king of Holland. In the year 1819, Mr. Everett, the successor of Mr. Eustis, renewed the claim, bringing into view the authorities derived from the most approved writers on the subject of national law. To these authorities the baron replied, that inductions and analogies derived from the principles of the law of nations, led naturally to endless discussions, as it was always easy to oppose authority to authority. After intimating that the principles of national law were not to govern in this case, he endeavors to show, that it does not fall within any of those analogies, nor within the principles of the French indemnities. Without effecting any thing in Holland, the discussion of the subject was, at the suggestion of the baron, transferred to Washington, where, after a further fruitless attempt, it was suspended, in consequence of a suggestion from the Dutch minister, that it was the wish of his government, that the further discussion of the subject should not be urged at present.

The uniform ill-success with which these claims have been pressed upon the European governments, affords little prospect that any satisfaction will ever be realized, unless indeed

some of them should find that it was cheaper to make compensation, than to incur the displeasure of the American government. A sense of justice or a regard to the principles of national law, have little influence, where the means of obtaining redress are not in the power of the injured party. Spain affords the only instance where any satisfaction has been obtained, and that not from any superior regard to principle, the claims having been delayed to the last moment, but merely because Cuba and the Floridas were within the reach of the American arms.



## CHAPTER IV.

Second session of the fourteenth congress—Message—Compensation law repealed—Proceedings of the commissioner of claims regulated—American navigation act passed—Internal improvements of a national character—Their importance—Mr. Gallatin's report upon the subject—A bill having passed both houses of congress making appropriations to this object, is negatived by the president, on the ground of its unconstitutionality—The president's objections—The bill lost—Arguments in favor of congress possessing the power by the constitution, as it now is—Presidents Madison and Monroe recommend an amendment of the constitution, conferring the power—Both houses adhere to the opinion, that such an amendment is unnecessary, and refuse to propose any—Provision made for the admission of the state of Mississippi into the union—Electoral votes counted; and the result declared—Mr. Monroe inaugurated—His address—The principles of his administration in relation to appointments developed in a private correspondence with General Jackson—The president's tour through the northern and western sections of the union—General Jackson's order of the 22d of April, 1817.

*Meeting of congress.* The second session of the fourteenth congress, as provided by the constitution, commenced on the 2d of December, 1816. On the 3d, the president transmitted his annual message, giving a favorable account of the foreign relations, and of the finances of the United States. The receipts, including the balance in the treasury at the commencement of the year, he estimates at forty-seven millions, and the funded debt at one hundred and ten millions. The customs received in 1816, owing to the excessive importations immediately succeeding the war, far exceeded any former year. The tranquil state of Europe, and the prosperous circumstances of the country, furnished little of interest for the president's message, or the attention of congress.

*Compensation law repealed.* The compensation law of the last session had excited general dissatisfaction, and been the occasion of preventing many of the members of the present congress from being elected to the next. Early in the session, a committee was appointed to inquire into the expediency of repealing or modifying the act. The committee, after remarking on the delicacy of the task assigned to the representatives of the people, of determining on the value of their own services, say that the compensation of

the members of the national legislature ought to be such as to command the first talents. That the value of money, considered as the means of living at this period, had depreciated nearly one half, compared with the time when their wages were first fixed at six dollars per day. That that sum is not now an adequate reward for persons qualified to discharge the duties of legislation, to compensate them for leaving their business, and devoting a considerable portion of the year to the public service. That it necessarily deranges their business for the remainder. And that the obvious consequence of an inadequate compensation will be an incompetency of talents in the national representation, or the perversion of the office to sinister purposes. After stating some reasons, why in their opinion an annual salary would be preferable to a per diem allowance, the committee, in deference to what they deem to be the public sentiment, report a bill in favor of the latter, leaving the sum a blank, to be filled by the house. The subject of filling this blank occupied much of the session, the sum varying from six to twelve dollars. In the end, none could be agreed on, and towards the close of the session a bill was passed, repealing all laws upon the subject, after the rising of the present congress. The effect of this measure was to give each member of the fourteenth congress three thousand dollars for two hundred and forty days service, or twelve dollars and an half a day, and leave to their successors the unpleasant task of fixing their own compensation.

*Proceedings of the commissioner of claims.* The commissioner appointed under the act of the last session on the subject of claims, for property lost or destroyed by the enemy during the late war, adopted a principle in relation to houses destroyed, which embraced claims to a great amount, which were supposed not to be within the purview of the law. The particular case which occasioned the greatest animadversion, was the house of Mrs. Carson, of Washington, from which a gun was fired at General Ross, and was burned by the enemy, as was supposed, for that reason. The commissioner decreed her a compensation, on the ground that it was occupied as a military station, which occasioned its destruction. The principle of this case embraced many others, which were also allowed. The president, apprehending that the commissioner was proceeding upon a mistaken construction of the law, suspended his functions, and referred the subject to congress. The result was the passing of a law explanatory of the former act,

and limiting its operation in regard to buildings, to such only as were occupied for military purposes by order of the commanding officer of the station, and directing the commissioner to report the facts in each case, with the testimony, to congress, for their ultimate decision.

*Navigation act.* A law was passed this session, bot-tomed upon the principle of the British navigation act, prohibiting the importation of any goods, except in ships of the United States, or of the country producing them, applicable to those nations only whose navigation laws were founded on similar principles. England and Sweden were the only nations that came within the provisions of the act.

*Bill relating to internal improvements.* In the course of the session a bill passed both houses, after much discussion, which set apart all the interest of the government in the bank of the United States, including the premium given for the charter, and all dividends accruing on the shares subscribed by the secretary of the treasury, "to constitute a fund for constructing roads and canals, and improving the navigation of water-courses, in order to facilitate, promote, and give security to internal commerce among the several states, and to render more easy and less expensive, the means and provisions for the common defense; such improvements to be effected with the assent of the several states within whose limits they should be made." The president refused his assent to the bill, on the ground that it was a subject of legislation not embraced within the provisions of the constitution. This brought on an interesting discussion between the legislature and the executive, in relation to the powers of the general government regarding internal improvements. Both concurred in the opinion that it was a power highly beneficial and important to be exercised. The executive supposed it must be obtained only by an amendment of the constitution to that effect; the legislature claimed that it was already provided for in that instrument.

*Reasons in favor of the system.* The geographical situation of the United States strongly urged internal improvements of a national character to unite their different sections. A high ridge of mountains and a wilderness, in a great measure uninhabited, separated the Atlantic states from the valley of the Mississippi. These impediments are too great to be overcome by individual or state exertion; objects of high national importance, require that the intercourse between these two great

sections of the country should be facilitated as much as possible. The most obvious are, the increasing the value and promoting the settlement of the government lands, by rendering them accessible; the increase of the impost duties, by enabling the inhabitants of the west to obtain foreign goods on more easy terms; facilitating the operations of the government, by opening a more convenient communication with the city of Washington; the more safe and expeditious transportation of the mails; and strengthening the bonds of the union, by rendering its remote parts accessible and known to each other, and increasing their mutual dependence. As a means of defense in case of any future war, the subject was all important. The experience of the last had shown that military operations cannot be successfully carried on in the west, without an easy and expeditious communication with the east. In time of peace, much the greatest portion of the military force must be stationed on the western border to control the Indian population. Most of the reverses of the American arms on the Canadian border, during the last war, are to be traced to the difficulties of transportation from the Atlantic to the northwestern frontier. Considerations like these, added to the immense private benefits to be derived from internal improvements, pressed the subject upon all branches of the government with great force. Early in the presidency of Mr. Jefferson, he recommended to congress to take measures to appropriate the surplus revenue to the purposes of internal improvement; in consequence of which Mr. Gallatin, then secretary of the treasury, was directed to report upon the objects upon which the public moneys might be profitably expended, to facilitate the intercourse between the different parts of the union. In the year 1808, he presented an able and minute report upon the subject, embracing three leading objects; the union of the waters of the great lakes with the Hudson; the waters of the Ohio with the Chesapeake; and the establishment of an inland navigation by canals, uniting the waters of the great bays along the Atlantic coast. The expenses of these, and other objects embraced in his report, were estimated at twenty millions, which it was then thought the treasury, in the course of a few years, might sustain. The restrictive system, and consequent war, suspended for a considerable time any further measures. The subject engaged the early attention of Congress, after the close of

the war, and produced the bill in question, intended as the commencement of a system of internal improvements on a large scale.

*President's objections to the bill.* The president's objections to the bill, resulting from a limited construction of the constitution, were, that the legislative powers enumerated in the 8th section of the first article, do not embrace the object in question; and that it does not fall by any just interpretation, within the general provision, to make such laws as are necessary and proper to carry into execution the specified objects of legislation; that the power to regulate commerce among the several states, cannot include a power to construct roads and canals, and improve the navigation of water courses, without a latitude of construction departing from the ordinary import of the terms; that to refer the power in question to the clause, "to provide for the common defense and general welfare," would be contrary to the established and consistent rules of interpretation, as rendering the special and careful enumeration of powers which follows, nugatory and improper; that such a construction would have the effect of giving congress a general power of legislation instead of a defined and limited one, the terms common defense and general welfare, embracing every object within the purview of legislation: that it would have the effect of subjecting the constitutions and laws of the several states, in all cases not specifically exempted, to be superseded by the laws of congress, and of excluding the national judiciary, from its important and appropriate office of guarding the boundaries between the legislative powers of the general and state governments; questions relating to the general welfare, being questions of policy and expediency, unsusceptible of judicial cognizance and decision. A restriction of the power to such cases as are to be provided for by the expenditure of money, the president observes, is still less definite, money being the necessary means, by which all the great and important objects of government are to be accomplished. If the power claimed, with the train of powers incident thereto, be not given to congress by the constitution, the assent of the states, within whose limits the improvements are to be made, cannot confer the power; the only instance where such assent can enlarge the powers of congress, having relation to the admission of new states into the union, taken from one or more of the then existing states. Having

assigned his reasons for withholding his assent to the bill, the president remarks, that such a power might be exercised by the national legislature, with signal advantage to the general prosperity, and recommends an amendment of the constitution to that effect.

In the house of representatives, on the final question, shall the bill pass, the president's objections notwithstanding? the yeas were 60, noes 56; two-thirds being necessary to decide the question affirmatively, the bill was lost.

*Report of a committee of the house of representatives on internal improvements.* At the commencement of the first session of the succeeding congress, Mr. Monroe stated, that his opinion on this subject coincided with that of his predecessor, and recommended an amendment of the constitution, vesting congress with the necessary powers. In the house of representatives, the subject was referred to a select committee, who, after stating that the house ought to form their opinion, independently, and uninfluenced by the executive; and strongly intimating that the president's remarks were an improper interference with their appropriate duties, reported, that in their opinion, congress already had the power to lay out, construct, and improve military and post roads, and make canals through the several states, with their assent, for the conveyance of the mails; for the more safe and easy transportation of military stores, in time of war; and for promoting and giving security to internal commerce, leaving, in all cases, the jurisdictional rights of the soil in the respective states.

This opinion, they claim, is supported both by principle and precedent. The power of laying out and constructing post-roads, they contend, is contained in that clause of the constitution, which empowers congress to establish post-offices and post-roads. This necessarily embraces the power of providing for the transportation of the mails. Had congress no power to provide roads for this purpose, it would be in the power of the state authorities, by discontinuing, or refusing to open the necessary highways, to obstruct the transportation of the mails, and defeat one important object of the government. The power of opening and improving military roads in time of war, has never been questioned; but has always been admitted to be necessary for the transportation of armies, and their appendages, from one point of operation to another. If such a power is incident to a state of war, the committee claim it exists in time of peace, as a necessary preparation for war.

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If necessary to resort to a liberal construction of the constitution, this is a case, the committee claim, which peculiarly requires it. It was impossible for the framers of that instrument to comprehend all the cases, to which the powers of congress ought to be extended, in order to attain the ultimate object, stated to be "the general welfare." In the course of the widely diversified and extended interests of the union, it would be necessary to legislate upon a variety of subjects, which could not be distinctly foreseen; therefore, in the preamble, and in the clause designating the objects for which money was to be appropriated, the most general and comprehensive expressions were used, on purpose to include unforeseen and undefined objects, and exclude such a narrow construction of the constitution, as would render frequent amendments necessary.

Power is given to levy and collect taxes to provide for the common defense, and general welfare of the United States. Terms more general and unlimited could not well be used, in relation to the expenditure of money; and under this head, moneys have been freely expended in purchasing a library, and expensive paintings to decorate the hall of Congress, and for a great variety of objects, not specifically pointed out in the constitution.

The precedents adduced in support of the opinion of the committee, were, the act of congress of March, 1806, providing for the laying out and constructing a road from Cumberland, in the state of Maryland, to the Ohio river; and, although this was done in consequence of a compact between the United States and the state of Ohio, at the time it was admitted into the Union, yet such a compact would have no validity, unless congress possessed the power in question.

The acts of the 21st of April, 1806, and 3d of March, 1817, authorizing roads to be opened from Nashville and Reynoldsburgh, in the state of Tennessee, to different points in the Mississippi territory. A military road from Pittsburgh to Sacket's harbor, in the state of New York. One of the first acts of Mr. Monroe's presidency, was the ordering of this road to be opened and improved. These precedents, showing the sense both of the legislative and the executive branches of the government, on the subject in question, though they could not sanction a construction of the constitution manifestly erroneous, go far to establish the positions laid down by the committee.

On the subject of canals, they remark, that most of the arguments in favor of roads are appropriate, and in some instances apply with superior force. The power to make roads and canals, to facilitate the internal commerce of the states, is no less incident to the power of regulating that commerce, than many of the powers exercised under the head of regulating foreign commerce, are to that object.

The embarrassments of the nation during the war, for the want of the means of internal communication, both in relation to trade, and the transportation of military stores, have been too recently felt to be forgotten. Vested with the power of making war, the constitution never could have intended that the general government should make it under such disadvantages. With a navy yet insufficient to insure the safe conveyance, coastwise, of troops and military stores, the United States have been compelled, from the want of an internal water communication, which is acknowledged to be practicable, to encounter the most wasteful and extravagant expenses in the transportation of the means of defense. From the same cause, the internal trade between the states has been embarrassed, and in a great measure cut off in time of war, so that the productions of one portion of the community have rotted on their hands, while another was suffering for the want of them.

The report concludes with a resolution, declaring it expedient to appropriate the revenue of the United States bank, belonging to the government, to the purposes of internal improvement. The reasoning of the committee was acquiesced in, and no amendment of the constitution deemed necessary.

*Admission of Mississippi.* At this session the Mississippi territory was divided, and the western section authorized to form a constitution, and make the necessary arrangements for admission into the union; and at the next was received, and constituted the state of Mississippi; the eastern district was formed into a territorial government, and denominated Alabama.

*Result of the presidential election.* On the 12th of February, the two houses met in convention in the hall of the house of representatives, for the purpose of opening and counting the votes for president and vice president of the United States. The president of the senate took the speaker's chair, and presided in the convention. The whole number of votes for president were 217, of which James Monroe had 183, and Rufus King 34. Daniel T. Tompkins



had 183 votes for vice president, and thereupon Mr. Monroe was declared to be duly elected president, and Mr. Tompkins vice president of the United States for four years, commencing the 4th of March, A. D. 1817.

*Inaugural address.* Upon that day, the senate, having been previously summoned, met, and the president elect, in the presence of the senate, most of the members of the house of representatives, the heads of departments, the judges of the supreme court, foreign ministers, and a large concourse of citizens, delivered an inaugural address, taking a view of the present prosperous state of the nation, approving the general course of his predecessor's administration, and enumerating the measures he deemed necessary to secure and perpetuate the public safety and happiness. He then took the oath of office, administered to him by the chief justice, "faithfully to execute the office of president, and according to the best of his abilities to preserve, protect, and defend the constitution of the United States."

*Mr. Monroe's policy regarding appointments.* Mr. Monroe commenced his administration under very favorable auspices. He had been elected by more than five sixths of the electoral votes, and with greater unanimity than any president since the days of Washington. The nation was more respected abroad, and more happy and flourishing at home, than at any former period. The object of the meeting of the senate on the 4th of March, was the formation of the cabinet under the new administration. Much anxiety existed, especially among the candidates for office, as to the course the new president would pursue in his nominations. On the one hand he was strongly pressed by those who had been most influential in procuring his election, and who considered themselves entitled to consideration in his appointments, to keep up the old distinctions of party, and exclude federalists from office. They urged their merits and exertions in bringing about the present state of things; the importance of preserving union in their ranks, and the necessity of having the chief magistrate served by those who were disposed to promote, rather than thwart his views. The other course presented an opportunity of making a much better selection. As there were now no political questions of importance on which the parties differed, the Washington policy of calling the best talents of the nation into public service, without distinction of party, might safely be adopted: and Mr. Monroe was now invited, by every consideration, to take the high, and honorable ground of chief

magistrate of the whole nation, rather than to consent to be an instrument to perpetuate party animosities.

*Correspondence between Monroe and Jackson.* Among the many curious incidents attending the contest for the presidency, in 1825, was the disclosure of a confidential correspondence, between Mr. Monroe and a distinguished military officer, on the subject of forming the cabinet of 1817. It is to be regretted that any circumstance should lead to a scrutiny of the private and confidential correspondence of any individuals; but as these letters were finally published with the full consent of the writers, they have become the property of the public, and are interesting as they develop their views on an important subject. A principal object of the correspondence on the part of General Jackson, was to recommend Colonel William Drayton of South Carolina, a decided federalist, to the office of secretary at war, and to decline it himself. In a letter of the 12th of November, 1816, the general, an undeviating republican himself, remarks: "Your happiness, and the nation's welfare, materially depend on the selections which are to be made, to fill the heads of departments. Every thing depends on the selection of your ministry. In every instance, party and party feelings should be avoided. Now is the time to exterminate that monster, called party spirit. By selecting characters most conspicuous for probity, virtue, capacity, and firmness, without regard to party, you will go far to, if not entirely, eradicate those feelings, which, on former occasions, threw so many obstacles in the way of government, and perhaps have the pleasure and honor of uniting a people heretofore politically divided. The chief magistrate of a great and powerful nation should never indulge in party feelings; his conduct should be liberal and disinterested, always bearing in mind that he acts for the whole, and not a part of the community. By this course you will exalt the national character, and acquire for yourself a name as imperishable as monumental brass. Consult no party in your choice. Pursue the dictates of that unerring judgment which has so long and so often benefited the country, and rendered conspicuous its rulers."

In another part of his communications upon that subject, the general seems to think, that some of the federalists had rendered themselves obnoxious to military execution, as spies and traitors, in consequence of the sentiments they entertained, and the course they took in relation to the war; and had they fallen within his precincts, he

should have subjected them to martial law : notwithstanding which, as a body, he is of opinion their errors ought to be forgiven, and they restored to an equal standing with their political opponents. The constitution, he thinks, which proscribes religious tests as a qualification for office, ought in its spirit to be construed to exclude political ones, also, when they are made use of merely for the purpose of accumulating offices in the hands of a particular party. No man, since the Washington administration, has had the firmness to resist party considerations. The language of General Jackson, aside from his sentiments in relation to the military execution of certain federalists, is the language of General Washington, happily illustrated by his example. How the hero of New Orleans would have conducted under like circumstances, had not then been tested.

Twelve years afterwards, Mr. Monroe's confidential adviser became his successor ; and the people over whom he was called to preside, looked with anxious expectation to see these noble principles exemplified in practice. It was not believed possible that a man who entertained such exalted sentiments, would ever prostitute the office to the purpose of rewarding partisan editors, and other instruments of his elevation. The proscriptions of 1829-30 created the more surprise, as proceeding from such a source ; and led to the belief that their ostensible author had lost his energy of character, and given himself up to the guidance of unprincipled advisers.

Mr. Monroe, though a military officer of the revolution, seems not to have possessed the moral courage necessary to carry so noble a principle into effect. In a letter of the 14th of December, in reply to General Jackson's, he admits the correctness of the principle, but thinks the time had not then arrived when the object could be fully accomplished. "I agree with you decidedly," he says, "that the chief magistrate of the country ought not to be the head of the party, but of the nation itself. In deciding, however, how a new administration is to be formed, many considerations claim attention, as on a proper estimate of them much may depend of the success of that administration, and even of the republican cause. We have heretofore been divided into two great parties ; the contest between them has never ceased from its commencement to the present time, nor do I think it can be said now to have ceased. To give effect to free government, and secure it from future danger, ought not its decided friends, who stood firm, to be principally re-

lied on? Would not the association of any of their opponents in the administration, itself wound their feelings, or at least of very many of them, to the injury of the republican cause? Might it not be considered by the other party as an offer of compromise with them, and have a tendency to revive that party, on its former principles? My impression is, that the administration should rest strongly on the republican party, indulging towards the other a spirit of moderation, and evincing a desire to discriminate between its members, and to bring the whole into the republican fold, as quietly as possible. The first object is to save the cause, which can be done by those who are devoted to it, only, and of course by keeping them together; or in other words, by not disgusting them, by too hasty an act of liberality to the other party, thereby breaking the generous spirit of the republican party, and keeping alive that of the federal. The second is, to prevent the reorganization and revival of the federal party; which, if my hypothesis is true, that the existence of party is not necessary to a free government, and the other opinion which I have advanced is well founded, that the great body of the federal party are republican, will not be found impracticable. To accomplish both objects, and thereby exterminate all party divisions in our country, and give new strength and stability to our government, is a great undertaking, not easily executed. I agree perfectly with you in the grand object, that moderation should be shown to the federal party, and even a generous policy adopted towards it; the only difference between us seems to be, how far shall that spirit be indulged in the outset.

In the formation of an administration, it appears to me that the representative principle ought to be respected, in a certain degree, at least, and that a head of a department, there being four, should be taken from the four great sections of the union, the east, the middle, the south, and the west. This principle should not be always adhered to; great emergencies, and transcendent talents, would always justify a departure from it; but it would produce a good effect, to attend to it when practicable. Each part of the union would be gratified by it, and the knowledge of local details and means, which would thereby be brought into the cabinet, would be useful. I am in no wise compromitted, in respect to any one, but free to act according to my judgment."

In judging of the relative merits of this correspondence, it should be borne in mind, that General Jackson was theo-

rizing upon what, on general principles, would be proper, and with a view to introduce a particular friend of his, belonging to the federal party, into the administration ; while Mr. Monroe was anxiously engaged in marking out to himself a course of policy, for a situation in which he must soon be called to act.

The department of state was intrusted to Mr. Adams ; Mr. Crawford was continued in the treasury. The war department was first offered to general Jackson, then to governor Shelby, next to Mr. Clay, and afterwards to Mr. Calhoun, who accepted. Smith Thompson, of New York, was appointed to the navy department. In all the important nominations, the president strictly adhered to the principles, which he prescribed to himself in the foregoing correspondence.

*President's tour.* Having made the necessary arrangements for the commencement of his administration, the president determined on taking a tour through the states, north of the Potomac, the ostensible object of which was, to visit the works of defense on the sea-board. From the cursory view of these works, to which he would necessarily be limited, no important results could be expected. But other objects of consequence would probably be accomplished. The citizens would be gratified with an opportunity of manifesting their respect for the president ; he would learn the state of public feeling in an important section of the country, opposed to his election. It would have a tendency to soften the asperity of party feeling, and to reconcile the different political sects to each other, and to the chief magistrate of the union.

On the 31st of May, the president commenced his journey, accompanied only by Mr. Mason, his private secretary. At Baltimore, he was joined by general Swift, chief of the corps of engineers, who accompanied him through his tour, on the sea-board, for the purpose of making observations of a military nature, on the works of defense. Notwithstanding the plain and republican manner in which the president set out on this journey, professedly a tour of business only, there was a universal determination to show him every mark of respect. The cities, towns, and villages, which lay in his route, vied with each other in their exertions to honor the chief magistrate. The exhibitions were all of the same character, but more or less splendid, according to the number, wealth, and ambition of the citizens. One of the most pleasant circumstances attending these demonstrations, was the union of all parties. Political enemies, who had scarcely

been upon terms of common civility with each other for years, united in their congratulations, and festivities upon this occasion. It was emphatically denominated the era of good feelings.

*Manner of his reception.* His approach to a particular town being announced, the best lodgings were provided, to which he was escorted by the civil and military authorities, and citizens of the place. A committee of arrangements were appointed, who selected one of the ablest and most accomplished of their number, to deliver a congratulatory address. These were more or less polished, flattering, or bombastic, according to the talents, and feelings of their respective authors. The objects of all were the same. They bid the president a cordial welcome to their village; expressed their high sense of the honor he had done them; complimented him on his past services, and exertions for the public good; congratulated him and themselves on the national prosperity and its future prospects; expressed their confident expectations of a wise and impartial administration under his auspices; and wished him a safe and prosperous journey, and a long and happy life. These were answered with as much variety as the ingenuity of the president could suggest; but always with a reciprocation of good feelings; by a notice of any important event to the honor of the place, if any was within his recollection; by many thanks to the citizens for their civilities, and to the committee, for the polite manner in which they had been communicated; and by a profusion of good wishes for the prosperity of the town. A sumptuous entertainment was then provided, of the best the city afforded, at which the president occupied the chief seat; and the citizens arranged themselves on each hand, nearer or more remote, in proportion to their respective dignities. The entertainment was concluded with appropriate sentiments. Mr. Monroe received upwards of fifty of these civilities, in the course of his journey. And though to an old man, of upwards of sixty, more accustomed to the dull routine of business, than the hilarities of a feast, they became irksome; yet he went through them, with a good degree of eclat. His looks, words, and actions were favorably interpreted, and afforded a fertile subject of conversation for a considerable time after his departure.

*Reception at Boston.* How he would be received, and treated in the state of Massachusetts, and in the town of Boston in particular, became a matter of considerable speculation. They had given a unanimous vote against him.

- While acting as secretary at war, he had opposed with great talent, and no small degree of severity, their favorite doctrine, in relation to the control of the general government over the militia. The state government, and the municipal authorities of the town were still his political opponents. Considerations of this nature, however, were entirely laid aside, and they determined to show him the most marked attention. The contest for the presidency being ended, and Mr. Monroe constitutionally placed in the chair, they were willing to receive and recognize him as the head of the nation.

Governor Brooks directed his first aid, colonel Sumner, to meet the president at his entrance, attach himself to his suit, and attend him through the state. Major General Crane was directed to procure a suitable military escort. The inhabitants of the town of Boston, chose a large committee of both political parties, to make the necessary arrangements for his reception. The discharge of a park of artillery, and the ringing of bells at twelve o'clock, on the 2d of July, announced his arrival at the entrance of the town, where he was met by the committee of arrangements, and escorted through the principal streets, by a procession of citizens, of more than a mile in length, to a suite of rooms, provided for him at the Exchange Coffee House. He remained at Boston until the 8th of July, viewing the various objects worthy of notice, in the metropolis of New England, and its vicinity; and receiving and reciprocating the compliments of his fellow-citizens; each striving to obliterate party distinctions in the general festivity of the occasion. The scene had a happy effect in harmonizing the citizens; to the president, it was a high gratification, to be recognized and treated as the chief magistrate of the whole nation, in the midst of his political opponents; and to Europe, it presented the imposing aspect of a united and powerful commonwealth. Complimentary addresses, of a formal character, had multiplied upon him so much, since his arrival at Providence, that at Salem he was obliged to halt, and seclude himself from his fellow-citizens some days, to construct appropriate replies, and discharge the tax on his ingenuity, which they had imposed.

*Remarks on these civilities.* Many citizens living without the sphere of the excitement occasioned by the president's tour, viewed these extraordinary attentions with some degree of dissatisfaction. They were disposed to consider them as hostile to the principles of liberty and equality, the

distinguishing characteristics of republicanism; as having too much of a monarchical tendency; and bearing too strong a resemblance to the pageantry, usually attendant on the journey of a European sovereign through his dominions. Some jealousy was also excited, lest these distinguished marks of respect, in the only section of the Union opposed to his election, should induce a partiality in favor of his new friends, to the prejudice of his old ones, in his future designations to office. Mr. Monroe they considered a plain, honest, good citizen, of sound sense and judgment, who had served the people in several important stations, with reputation to himself and advantage to his country. His talents, and acquaintance with the concerns of the nation, qualified him to discharge the duties of the high office to which he had been elected. There were, very probably, several hundred of his fellow-citizens who could have done the same as well, had the choice fallen upon them. A chain of events beyond his or their control, had made him the first man of the nation, and left them in subordinate stations or in the shades of retirement. This circumstance, while it entitled him to respect, did not in their opinion, justify so great an exhibition of congratulations, compliments, and parade, as attended him through his tour.

*Notices of editors.* The editors of several respectable papers entertained their customers with severe, and sarcastic remarks on this exhibition. One proposes to publish "the flowers of newspapers, embracing all the beauties of the northern prints since the commencement of the president's tour, their minute description of his diet, drink, and dress; the roses which were showered upon him, the smiles of the ladies on his appearance; his breakfasts, refreshments, dinners, tea parties, and suppers; the great men who attended his excellency, and the old ladies whom he visited, with a great variety of very nice and minute anecdotes, accompanied with a number of engravings representing these brilliant scenes.\*" Another very gravely apologizes to his customers for occupying so much of their time with these trifling scenes, but he thinks it belongs to history to describe them, as indicative of the manners, customs, and feelings of the times. His own views, he states, were so much opposed to these pompous proceedings, that when the President visited Baltimore he carefully avoided falling into his train. To

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\* Richmond Enquirer, July 29th, 1817.



him it seemed impossible, that Mr. Monroe, encompassed by a crowd at every hour, intruded upon, and beset at every corner by an idly gazing multitude, could perform his public duties so faithfully, or enjoy himself as a private gentleman would wish, on such a tour.\*

*Journey westward.* The President reached Portland, the eastern limit of his journey, on the 15th of July. Thence across the states of New Hampshire and Vermont, to Burlington on lake Champlain, where he arrived on the 24th. At Plattsburgh he had an opportunity of viewing in the bay, and on the shore, the theatre of the memorable events of the 11th of September, 1814; and of complimenting the citizens on their valor, displayed on that occasion. From that village to Sacket's harbor, he proceeded on a rout which he afterwards designated for a military road, to connect the two principal naval stations on lakes Champlain and Ontario. From Sacket's harbor, the president proceeded up the lake, and visited the fort at the mouth of the Niagara, the falls, and the principal scenes of military operation on that frontier, his suite passing on the British side of the river. From Buffalo he proceeded to Detroit, the western limit of his journey, where he arrived on the 12th of August; and having visited the works of defense, and the scenes of Hull's campaign, he commenced his return, taking some of the principal towns in the state of Ohio in his route, and arrived at Pittsburgh on the 5th of September. The same distinguished marks of attention were shown him in the west as in the east. He reached Washington on the 18th, having performed a tour of more than two thousand miles, and been absent from the seat of government, three and an half months.

*Military order of the 22d April.* According to the strict rules of military etiquette, in ordinary cases, when a particular service is required of a subordinate officer, the order requiring such service, is to be communicated from the war department to the general commanding in the district where the service is to be performed, and by him to the officer of whom it is required. To this general rule there are necessarily many exceptions, as in all cases, where the transmission of the order, through the commanding general, would occasion a delay prejudicial to the service; but in such cases, the general in chief always expects immediate notice of the

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\* Niles' Weekly Register.

proceeding. While the war department was conducted by Mr. Graham, previous to Mr. Calhoun's entering upon its duties, an order had issued, either through inadvertence, or for reasons which the president deemed sufficient, to a subordinate officer in General Jackson's department, without being communicated through him. This step produced, from the general, an order of the 22d of April, 1817, prohibiting all his subordinate officers from obeying any order emanating from the war department, unless coming through him, as the proper organ of communication. In justification of a proceeding so extraordinary, the general remarks, "that superior officers having commands assigned them, are responsible to the government for the character and conduct of that command, and it might as well be justified in an officer, senior in command, to give orders to a guard on duty, without passing that order through the officer of that guard, as that the department of war should countermand the arrangement of commanding generals, without giving their orders through their proper channel. To acquiesce in such a course, would be a tame surrender of military rights and etiquette, and at once subvert the established principle of subordination and good order. Obedience to the lawful commands of superior officers, is constitutionally and morally required; but there is a chain of communication, binding the military compact, which, if broken, opens the door to disobedience and disrespect, and gives loose to the turbulent spirits which are ever ready to excite mutiny." This order was issued to General Jackson's subordinate officers, and communicated, through the medium of the press, to the public.

Whether General Jackson, or the war department were in the right, in relation to this measure, depended on circumstances which have not been disclosed, as it never has been the subject of legislative or executive inquiry. But there was something novel, and something which had a tendency to produce that very insubordination, which the general so much deprecates, for the commanding officer of a district to prohibit those under his command, yielding obedience to the supreme military authority of the nation. It placed them in a situation peculiarly embarrassing; if, in compliance with the general's mandate, they refused obedience to the orders of the war department, they were liable to immediate removal by the president, or to be arrested, tried, and punished by a court martial; if they complied, they were liable to the same process from General Jackson.

The subject became a matter of much animadversion. Gen. Scott, the second in command in the northern division, on a public occasion at New York, pronounced it an act of mutiny. Some officious intermeddler procured a publication of General Scott's remarks in a paper of that city, and transmitted them to Gen. Jackson. This produced a correspondence between the two generals, honorable to neither, in which a discussion of the propriety or legality of the order was lost in personal abuse. The public waited with considerable anxiety, the issue of a proceeding so extraordinary; but nothing further transpired on the subject. As the event took place previous to Mr. Calhoun's assuming the duties of the war department, he did not think proper to notice it in any other manner, than by publishing an official notice, "that on ordinary occasions, orders from that department would issue only to the commanding generals of the divisions, and in cases where the service required a different course, the general in chief would be notified of the order with as little delay as possible."

## CHAPTER V.

Negro fort on the Apalachicola destroyed—Aury and M'Gregor's enterprises—Galveston and Amelia Island—Piratical establishments suppressed—East Florida—Mickasuky and Sawanney villages—Instructions to General Gaines—Destruction of Fowltown—Massacre of Lieutenant Scott's party—Instructions to General Jackson—His proceedings—Tennessee volunteers raised and organized by him—Fort Gadsden built—Mickasuky villages destroyed—St. Marks taken—Sawaneytown destroyed—Arbuthnot and Ambrister taken—Their character and conduct, trial and sentence—Pensacola and the Barancas taken—Governor of Florida, and civil officers appointed by General Jackson—Orders issued to take St. Augustine—Countermanded by the president—Proceedings in relation to Captain Wright—Correspondence between General Jackson and Governor Rabun—Remonstrance of Spanish government—Mr. Adams' reply—Proceedings of congress relating to the Seminole war.

*Hostile collections in the Floridas.* When the British withdrew their military force from the Floridas, at the close of the late war, Edward Nicolls, formerly a colonel, and James Woodbine, a captain in the British service, who had been the principal agents in exciting the Indians and negroes of the south to hostilities, remained in the territory, and industriously employed themselves in forming combinations against the south-western frontier. To the Creek Indians, whose lands had been ceded to the United States by Jackson's treaty of August, 1814, Nicolls represented that they had been grossly injured and defrauded; that a restoration of their lands was provided for by the treaty of Ghent, and that the British government would guaranty and enforce their claims. He assumed the character of a British agent, and pretended that he had special powers from the government to support their pretensions. In furtherance of these views, Nicolls and Woodbine established a fort on the Apalachicola river, which divides the provinces of East and West Florida, a station which, from its proximity to Georgia, Louisiana, and the Mississippi territory, was well adapted to collect runaway negroes, and disaffected Indians of the south, to a single point. From the difficulty of getting heavy artillery to bear upon it, the place was considered impregnable, and had become the general rendezvous of Nicolls and Woodbine's troops. In July, 1816, about four hundred negroes and Indians had col-

lected at this spot, and fortified it with twelve pieces of artillery, and well stored it with provisions and munitions of war. In consequence of these hostile appearances, Colonel Chinch, with a detachment of United States troops, and five hundred friendly Indians under the command of M'Intosh, moved down from the head waters of the Appalachicola, and invested the fort on the land side. Nicolls and Woodbine, after exacting an oath from their followers that they would not suffer an American to approach the place alive, gave it up to them and went off.

*Massacre of a watering party.* Two schooners laden with military stores and provisions for Colonel Chinch's forces from New Orleans, convoyed by two gunboats, having obtained permission of the commandant at Pensacola, entered the river on the 10th of July. On nearing the fort, a watering party of seven men was attacked by an ambuscade of negroes from the shore; five were killed on the spot, one escaped, and one was taken prisoner, who was carried into the fort, and there covered with tar, and inhumanly burned. The gunboats had only one twelve pounder each, and the whole force did not exceed fifty men. On communicating with the troops above, they were advised not to approach the fort; notwithstanding this advice, they determined to attack it, and began to warp up, occasionally throwing a shot to ascertain the distance, the negroes at the same time firing their long guns, but without skill or effect. Having warped sufficiently near, the Americans commenced firing hot shot, when one of the first entered their principal magazine, and blew up the fort; two hundred and seventy were killed, most of the remainder badly wounded; only three of the whole number escaped unhurt. Three thousand stands of arms, five hundred carbines, eight hundred pair of pistols, five hundred swords; five hundred kegs of powder stored outside of the fort, and a large quantity of clothing were taken. These munitions of war were designed to supply the hostile assemblages in the Floridas with the means of depredating on the American frontier. Two of the principal chiefs of the fort were made prisoners, whom, Colonel Chinch, on hearing the barbarous manner in which they had murdered the American prisoners, gave up to the M'Intosh Indians, who executed upon them a terrible act of retributive justice.

*Aury's establishment at Galveston.* The unsettled state of the Spanish South American provinces afforded

favorable opportunities for the turbulent and adventurous to engage in desperate enterprises. Of this description was Louis Aury, a West Indian, of French extraction, who in July, 1816, having collected several vessels at Aux Cayes, and manned them with a mixture of brigands, mulattoes, and refugees from the piratical station at Barrataria, recently broken up, proceeded to form an establishment at Snake Island, in the bay of St. Barnard, in the gulf of Mexico. This was a small uninhabited sand bank, of a few miles in circumference, on the coast of Texas, 130 miles westward of the mouth of the Mississippi, and within what was claimed to be the Louisiana purchase. Aury having planted himself on this spot, immediately opened a communication with Herrera, another adventurer, who at New Orleans had assumed the character of agent from a Mexican congress. Herrera, with what followers and friends he could obtain, proceeded to join Aury; and they, with their associates, to the amount of three hundred desperadoes, of every description and color, immediately became patriots, contending for the liberties of man. Their first proceeding was to organize a republic, of which Aury was the civil and military governor: their next to institute a court of admiralty to pass judicial sentences upon the prizes which might be taken and brought in by their squadron. Another Frenchman, a bankrupt auctioneer, from New Orleans, was appointed secretary of state. An administrator of the public revenue, a collector of customs, and other officers deemed necessary to give their establishment the semblance of a legal government, were also appointed. The republic thus constituted, assumed the name of Galveston, and commenced their operations by capturing Spanish slave ships in the gulf of Mexico, condemning them in Aury's admiralty courts, and smuggling them into the United States. Slave speculators, in considerable numbers, resorted there, purchased their cargoes, and transported them through the marshes and swamps on the coast, to the planters of Louisiana. Other goods, also, found on board their prizes, were packed in small parcels and introduced into the United States through the same channel. This assemblage, differing from a gang of pirates only in their boldness in assuming the forms of a regular government, were not scrupulous in regard to the national character of the vessels which they plundered, but laid their hands on all where they could find specie, valuable merchandise, or slaves on board. Many of

the regular merchants of New Orleans, trading in the gulf of Mexico, suffered by their depredations.

Aury and his associates continued in this course at Galveston until the next April, when finding his proceedings noticed by the American government, he removed to Matagorda, on the same coast, ninety miles west of his first station; leaving only an advice boat to direct his cruisers, with their prizes, to follow him. A few days afterwards, the General Artigas, one of his privateers, arrived at Galveston with two Spanish prizes, containing two hundred and eighty-seven slaves, and another with three prizes, a Spanish, a Portuguese, and an American. The Lafittes, formerly cliques of the Barratarian pirates, were among the most conspicuous of Aury's men, and owners of several cruisers in the gulf of Mexico. After Aury had left Galveston, a new set of adventurers, to the amount of thirty or forty, proceeded to that spot from New Orleans, and organized another republic, with their courts of admiralty and public officers. Some of the prizes condemned by the Galveston courts, were afterwards sent by the captors to New Orleans for sale, where they were claimed by the Spanish consul, in behalf of the original owners, and restored. Aury, finding his last position too remote for the purpose of smuggling his plundered property into the United States, quitted it, and returned to Galveston. After remaining there a few days, and collecting together all the adventurers in the gulf of Mexico who were willing to join his fortunes, he sailed for Amelia Island, giving notice that Galveston was no longer under his protection.

*Amelia Island.* This island lies at the mouth of the St. Mary's river, the southern boundary of the United States, opposite Cumberland Island, and nine miles from the town of St. Mary's, on the American side of the river, is thirteen miles long, and two broad, and has only one place of any consequence, the town and fort of Fernandina. Its position rendered it a convenient point for clandestinely introducing slaves into the United States; and a set of speculators had collected there, principally for that object. Although an appendage of East Florida, the Spanish authorities had ceased to have any effect there, since the troubles in South America. Previous to Aury's arrival, Gregor McGregor, a Scotchman, who had escaped from the royalist army on the Spanish main, had taken possession of the island, assuming the title of brigadier general and commander in chief of all the forces, naval and military, destined to effect the inde-

pendence of the Floridas ; and claiming to be authorized by the republics of Mexico, Buenos Ayres, New Granada, and Venezuela, to liberate those provinces from Spanish tyranny, and give them the blessings of a free government. He was accompanied by one hundred and fifty followers, refugees and deserters from the republican armies, who were to be liberally rewarded with offices and land in the territory they were about to conquer. At this time there were but few Spanish inhabitants in the Floridas, excepting those who were employed by, or in some way dependent on, the government ; and these too much dispersed to be united in any systematic opposition to royal authority. McGregor's proclamations were unattended to ; and he soon quit the country, finding it ill suited to his purposes, and returned to the Spanish main, leaving Ruggles Hubbard, formerly sheriff of the city of New York, in possession of the island, under the assumed title of Governor. Hubbard, with the assistance of Irvine, from the same city, undertook the management of its affairs. Aury, hearing of McGregor's expedition, hastened to Amelia Island, with the view of joining their forces, for the conquest of the Floridas. Before he arrived, McGregor had gone, and Hubbard and Irvine had taken possession. For the want of funds, the affairs of these persons had become desperate, and they were about leaving the island when Aury arrived. By a successful course of plundering, he had obtained considerable funds, and a large number of followers, blacks, renegadoes, and brigands of every description. A negotiation soon took place between him and the occupants of the island, by which he obtained its possession, and Hubbard and Irvine a supply of their most pressing wants. Aury brought with him a number of slave vessels, prizes to his squadron, the cargoes of which he and his new associates contrived to smuggle into the United States. The principal business of the successive occupants of this island, was to commission privateers, fitted out and owned by American citizens, to cruise on the Spanish trade, in the gulf of Mexico ; to furnish a convenient asylum for their prizes ; and a depot from whence their cargoes might be illegally introduced into the United States. Several privateers, thus fitted out in American ports, and manned by American citizens, had been commissioned by McGregor, and had captured and sent into Amelia a number of Spanish prize ships, during his occupation of the island. The same course had been pursued, with the same result, by his successors. In October Aury received a reinforcement of



twenty half-pay British officers, who had been thrown out of employment in consequence of the European peace, and who came out from Great Britain in the character of patriots in pursuit of honor, fame, and wealth, in the Spanish American contest. Hearing of McGregor's proceedings at Amelia, they came there with a view of uniting their fortunes with those of their countryman; but not arriving until his departure, their only alternative was to join Aury. His proceedings, those of McGregor and his associates, and of the people left at Galveston, all had one object, and bore one character; that of piracy and plunder, under the mask of patriotism. The capture of Spanish slave vessels, in the gulf of Mexico, and the introduction and sale of their cargoes of human flesh into the United States, in defiance of law, was their principal aim; but the flag of no nation protected their ships, when valuable cargoes came within their reach.

*Executive proceedings relating to Amelia Island.* The character and conduct of these establishments, under their successive leaders, had been critically observed by the government of the United States. They presented a case of some difficulty and importance. In the contest between Spain and her American provinces, it was determined to maintain a strict and impartial neutrality, although the public feeling was altogether in favor of the latter. The territory occupied by these companies of plunderers, was claimed by Spain; and it might be considered as an act of hostility against her, to take possession of it by force. At the same time, the occupants claiming to act under authority from the Spanish American republics, any force directed against them might be considered as operating against the cause of liberty in South America. That they should continue their machinations, on the borders of the United States, so much to their prejudice, was not to be endured. From the circumstance that the United States were engaged in a negotiation with Spain, for the cession of the Floridas, and their remote situation from the contending provinces, the executive very much doubted, from the first, whether these bands of adventurers had any authority from those republics. Circumstances were constantly occurring, which convinced the president that they were of a piratical character, unauthorized by any government; and the executive finally determined to occupy Amelia Island, notifying Spain that it was only for the purpose of preventing this conduct, and not with views hostile to her interests.

On the 12th of November, Major Bankhead, commandant of a battalion of artillery, stationed at Charleston, was ordered to take possession of Amelia Island, in conjunction with Captain Henly, of the ship John Adams, dispatched from New York, with a small squadron, for that purpose.

On the 22d of December, the military and naval commanders addressed a joint letter to Aury, informing him of their orders, and requiring him to surrender the island to them, and evacuate it as soon as possible, without any destruction or injury to the property found there when he took possession. Aury proposed to submit their claims to the determination of the representatives of the people of his republic, assembled at Ferdinanda; at the same time informing the American officers that no opposition would be made to their landing. On the next day they took possession of the island. Aury having no place of refuge, was suffered to remain with his followers until February, his blacks, and the most turbulent of his company, being ordered on board his vessels. From Amelia Aury came to Charleston, where he was arrested on the application of the Spanish consul, at the suit of an owner of one of the Spanish vessels captured by his squadron. He was discharged by Judge Drayton, from this process, by a writ of habeas corpus, on the ground that a marine trespass, committed without the jurisdiction of the United States, by foreigners at war, was not cognizable by the federal courts. The Galveston establishment, unsupported by any power, and narrowly watched by the American officers, crumbled to pieces, and dispersed.

*East Florida.* The territory of East Florida was, during the war of 1812, and continued to be after its close, the receptacle of a population of the vilest character. The Spanish authorities were over-awed, and scarcely felt beyond the limits of one or two fortified positions. The most numerous occupants of the interior, were the Seminole Indians, originally outcasts from the Creeks. Associated with them were the Red-sticks, Creeks who had been expelled from their lands, in consequence of the war of 1813, and the subsequent treaty, and other fugitives from the more northern tribes. They had erected a high pole, at their principal village of Mickasuky, in imitation of American liberty poles, and painted it red, to denote their thirst for the blood of the whites. Instead of stripes and stars, their flag was composed of the scalps of American citizens, whom they had murdered. Hence they were denominated Red-sticks. To these were added large assemblages of runaway

negroes from Georgia, who here found an asylum, and were encouraged and assisted to rob and murder their former masters. The frontier inhabitants had every thing to fear from such a population. Their numbers and strength were increasing. Their warriors were variously estimated, from fifteen to twenty-five hundred; probably the least was too high an estimate. Francis Hillishago, the chief of the dispossessed Creeks, had been to England to claim a restoration of their lands, which they had been made to believe were guarantied to them by the treaty of Ghent, and had received much attention, and encouraging talks, but no substantial aid from the British authorities. Adventurers from New Providence came among them, in the character of traders, and military leaders, supplied them with the instruments of plunder, and encouraged them in the belief that they would be supported by the British arms, in their attempts to repossess their lands. The Spanish garrisons gave them every encouragement, supplied them from Havana, represented their government as their protectors, and the Americans as their enemies, having no other view but to seize their lands, and extinguish their race. These garrisons, and the British traders, purchased their plunder. Thus supported, this banditti carried on a barbarous system of depredation and murder, on the Georgia and Alabama frontier. The Mickasuky villages stand on the borders of a lake of the same name, near the northern boundary of East Florida, and the southern limits of Georgia. From their situation in the midst of a wilderness, and surrounded with swamps, they were considered as secure from the attacks of the whites. Another considerable place was the Sawaney villages, near the mouth of a river from which they derived their appellation, emptying into the gulf of Mexico. The principal occupants of these villages were fugitive slaves from Georgia; and their chief employment, and means of support, consisted in depredating on their former masters.

*General Gaines' instructions.* This region lay within the military department of general Jackson, and was under the immediate command of general Gaines. The latter was ordered to concentrate the regular force in that quarter, establish the necessary posts, and protect the frontier. In pursuance of these orders, he built fort Scott, on the Flint river, near its junction with the Catahoochee; fort Gaines, on the latter river, on the line between Georgia, and the Mississippi territory; and fort Crawford, within that territory, on the Canacho branch of the Escambia.

General Gaines' instructions on the subject of the Seminole war, were contained in four orders, from the war department. The first, of the 30th of October, 1817, after directing a detachment of Georgia militia to be called into service, states, "that the assurance of an additional force, the president flatters himself, will at least have the effect of restraining the Seminoles from committing further depredations, and perhaps of inducing them to make reparation for the murders which they have committed; should they, however, persevere in their refusal to make such reparation, it is the wish of the president that you should not, on that account, pass the line, and make an attack upon them within the limits of Florida, until you should have received further instructions from this department. You are authorized to remove the Indians, still remaining on the lands, ceded by the treaty made by General Jackson with the Creeks."

The second, bearing date the 2d of December, remarks, "the state of our negotiations with Spain, and the temper manifested by the principal European powers, make it impolitic, in the opinion of the president, to move a force, at this time, into the Spanish possessions, for the mere purpose of chastising the Seminoles, for depredations which have heretofore been committed by them." By the third, dated the 9th of December, general Gaines was instructed, that should the Indians appear in force on the Spanish side of the line, and persevere in committing hostilities within the limits of the United States, to exercise a sound discretion as to the propriety of crossing the line, for the purpose of attacking them, and breaking up their towns. The fourth, bearing date the 16th of December, further instructed him, that should the Seminole Indians still refuse to make reparation for their outrages, and depredations on the citizens of the United States, to consider himself at liberty to march across the Florida line, and attack them within its limits, unless they should shelter themselves under a Spanish fort, and in that event, immediately notify the war department.

*His proceedings.* On the 19th of November, General Gaines' head quarters being at fort Scott, in pursuance of his instructions to remove the remaining Creeks from the territory ceded to the United States, by Jackson's treaty, he dispatched an officer to Fowltown, an Indian settlement a few miles below him, whose inhabitants still lingered on the ceded lands, to require its chief to repair to his head quarters, and answer for his conduct in not quitting the territory. The Indian returned a haughty refusal. Major

Twigs was dispatched the next day, with two hundred and fifty men, with orders to bring the chiefs, and warriors of Fowltown, to fort Scott. Major Twigs arrived at the town early in the morning, and was attacked by the Indians. His detachment returned the fire, killed four warriors, wounded several, and put the rest to flight. Four days afterwards, the same officer was sent to destroy the town, which he found deserted, and bring off the provisions. To supply fort Scott, Major Muhlenburgh had been ordered from Mobile, with three vessels, laden with military stores; and on the 30th of November, was at the mouth of the Apalachicola river, endeavoring to ascend. General Gaines dispatched Lieutenant Scott down the river with a boat, and forty men to his assistance. Major Muhlenburgh took out twenty of the men, and put on board about the same number of his sick, and invalids, and seven women, and sent the boat, thus laden, back to the fort. On reaching the mouth of the Flint river, they were attacked by an ambuscade of Indians, from the banks. The whole party were killed except six soldiers, who escaped by swimming to the opposite shore, and one woman taken prisoner. The women and sick were dashed to pieces on the sides of the boat, and their scalps taken off, carried to Mickasuky, and hoisted on their red pole as trophies of their victory.

The Indians, whose dwellings and provisions had been destroyed, at Fowltown, with others, collected by them, were the agents in this attack, and continued to line the banks of the river, opposite the vessels, and fire on them whenever a man appeared on deck. Northerly winds and a strong current prevented them from ascending the river, and detained them in this perilous situation for several days. Another boat, with a party, was sent down to their aid, secured from attack by bulwarks, and with their assistance, and a favorable change of wind, Major Muhlenburgh was enabled to reach the fort.

In consequence of the requisition of General Gaines, General Glasscock's brigade, of Georgia militia, had been ordered into service early in November, for a term of three months, but owing to the delays incident to the movements of that description of force, and the want of seasonable supplies, their term of service had nearly expired, before they reached the place of destination; none could be prevailed upon to volunteer for a longer period, and they returned without affording any aid to the operations of General

Gaines, and a second detachment, of a thousand men, were ordered out to supply their places.

The practice of provisioning the troops by contract, instead of a commissariat, which had been adopted as a matter of economy since the war, was attended with great injury to the active service required in the south. The rise of provisions, and the unforeseen difficulties attending their transportation, had rendered the business a losing concern to the contractor, one of his principal agents failed, the provisions were not furnished, the troops were put on short allowance, and fort Scott was upon the point of being abandoned, for the want of supplies. On this subject, General Jackson remarks, "the mode of provisioning an army by contract is not adapted to the prompt and efficient movement of troops. It may answer in time of peace, where a failure or delay cannot produce any serious ill consequences; but where active operations are necessary, and success dependent upon prompt and quick movements, no dependence is to be placed on the contractor. His views are purely mercenary, and where the supplies will not insure a profit, he hesitates not on a failure, never regarding how far it may defeat the best devised plans of the commander in chief. Experience has confirmed me in this opinion, and the recent failure has prompted me again to express it."

*Instructions to General Jackson.* On receiving intelligence of the destruction of Lieutenant Scott and his party, the executive determined on taking more vigorous measures against the hostile assemblages in East Florida. On the 26th of December, orders were transmitted to General Jackson, then at his residence in Nashville, to repair without delay to fort Scott, and assume the immediate command of the forces in that quarter. After stating the amount of troops already in service, and the estimated number of the enemy, his instructions direct him, that if in his opinion, an additional force is requisite, to call upon the executives of the adjacent states for such further detachments of militia as he might deem necessary. He is then furnished with copies of the orders previously given to General Gaines, as containing the rules by which his conduct in the war was to be governed.

*Enlistment of volunteers.* On the receipt of this order, the general invited to his quarters a number of men who had served under him as officers in the campaign of 1813-14, against the Creeks, and proposed to them to raise a corps of a thousand mounted volunteers for the expedition, to serve

for the term of six months, unless sooner discharged ; and published an address, appealing to the patriotism of the volunteers of West Tennessee, to engage in the service. Assurances were given, that the requisite number should be raised. To those with whom patriotic motives were a secondary consideration, the prospect of a military excursion on horseback into the Floridas, and an opportunity of exploring a territory which was expected soon to belong to the United States, at the expense of government, were powerful inducements. The formidable armament to be arrayed against feeble bands of savages and negroes, put aside all idea of a serious conflict. General Jackson's name was a bulwark against the Indians of the south. The corps was soon completed, placed under the direction of Colonel Haynes, inspector general of the department of the south, ordered to rendezvous at Fayetteville, and proceed from thence to fort Scott, by the way of fort Gaines.

To a general more scrupulous in relation to constitutional points than the commander of this expedition then was, a question would have arisen whether this mode of raising troops was in compliance with his instructions, and a difficulty would also have presented itself as to organizing them. In what manner and by whom were the officers to be appointed and commissioned ? The constitution recognizes but two species of military officers : one, those of the regular service, appointed by the president and senate, and commissioned by the executive ; the other of the militia, appointed and commissioned under the state authorities. General Jackson, however, did not permit any constitutional scruples to prejudice the public service. The governor of Tennessee was said not to have been at Nashville at this time. The proposed volunteers would be a much more efficient corps than a militia draft. The officers might be designated by the men they were to command, and approved by the general, and when once taken into service, courts martial might settle all further difficulties. The principle adopted by the general was, that his instructions ordered him to break up the hostile collections of Indians and negroes in the Floridas, and secure the southern border ; and that by a liberal construction, they authorized every measure conducive to that object. General Jackson made the president acquainted with his proceedings, and received his unqualified approbation. How far this could legalize the measure, presented an interesting question. The subsequent approbation undoubtedly placed it on the same ground

as a previous order, but the question still occurs, what powers has the president on this subject? Enlisting a corps of volunteers, is another term for raising an army. No trace of such a power delegated to the president, is to be found in the constitution. On the contrary, that instrument expressly provides that it should be lodged in congress.

*Fort Gadsden.* Having directed Colonel Gibson, his quartermaster general, to procure supplies at New Orleans, and proceed with them to the mouth of the Apalachicola river, the general left Nashville and arrived at fort Scott on the 9th of March, with nine hundred of the Georgia militia. Here he found the troops in a starving condition, with only one quart of corn to a man, and a few lean cattle. These he ordered to be slaughtered, and the provisions distributed to the troops. He crossed the Flint river on the 10th, and took up his line of march towards the mouth of the Apalachicola, in expectation of meeting the supplies from New Orleans. On the 16th he arrived at Prospect Bluff, the site of the old negro fort which had been blown up in 1816. This he ordered to be rebuilt, to furnish a depot for the provisions expected from New Orleans, and denominated it fort Gadsden, in honor of one of his aids; provisions not having arrived, the troops were put upon half allowance. On his march he was joined by General Gaines, whose boat had been upset on the Flint river, by means of which he lost his adjutant general, Major Wright, two soldiers, and all his baggage.

*Provisions ordered through the Spanish territory.* The most convenient mode of provisioning the posts on the Florida border, was by means of the rivers which communicate with the gulf through that territory. This, it was manifest, could not be done against the will of the Spanish authorities, without violating the rights of that nation. There being no Spanish fortress on the Apalachicola, that river was made use of for this purpose with little ceremony. Fort Crawford is situated on the head waters of the Escambia, which communicates with the sea by Pensacola, and cannot be entered without passing the fortress of Barrancas. General Jackson finding this the most convenient channel of supplying that post, wrote to the governor of West Florida, that he should send his provisions that way, and any interruption in their passage would be considered as an act of hostility against the United States. The governor replied that the provisions must be landed, and the



Spanish duties paid. The general, however, without obtaining the governor's assent, or complying with his terms, sent on his provisions, which were suffered to pass without interruption.

*Relative condition of the forces.* On the first appearance of an Indian war in the south, General M'Intosh, a half breed, and chief of the upper Creeks, had been taken into the United States' service, with fifteen hundred warriors. The whole force now arrayed against the Seminoles, consisted of 800 regulars, 1000 Georgia militia, 1000 Tennessee volunteers, and 1500 Indians, composing a formidable army of 4300 men. The enemy to be combated, consisted of a few hundred fugitive Indians and negroes, hid in the swamps and wilds of the Floridas, with no means of raising or subsisting a military force of any magnitude.

*Destruction of the Mickasuky villages.* General Jackson, having made the necessary arrangements at fort Gadsden, set out on the 26th of March, in quest of his enemy. On the 1st of April, near the Mickasuky villages, he was joined by the main body of the Tennessee volunteers, who, hearing of the starving condition of the garrisons at fort Gaines and fort Scott, took a circuitous route through Georgia, to obtain subsistence. A small distance from the principal village, one of his spy companies had a short conflict with a few Indians, who fled at the approach of the flanks. The army found the villages all deserted. The habitations, amounting to three hundred, were burned; the adjacent country reconnoitered, and an abundant supply of corn and cattle obtained. Evident indications of a hostile spirit towards the Americans, were found at these villages. In the council house of the Kenhagwa's town, belonging to the king of the Mickasukians, were more than fifty fresh scalps; and in the centre of the public square, stood the old Red-stick standard, a red pole strung with scalps, recognized from the hair, to have been taken from the heads of the unfortunate companions of Lieutenant Scott.

Leaving M'Intosh and a portion of his warriors to scour the country, and hunt the straggling Seminoles in the neighborhood of Mickasuky, the general took up his line of march for fort St. Marks, a small Spanish post at the mouth of a river of the same name, at the head of the Apalachy bay. Capt. M'Keever, who brought the supplies from New Orleans, with Col. Gibson, had been sent round into this bay, with orders to cruise near the mouth of the river, to take

any Indians who might be endeavoring to escape in that direction. By hoisting an English flag he succeeded in decoying on board, two chiefs, Francis Hillishago, who had been to England to solicit aid for the dispossessed Creeks, and who was the principal instigator of this war; and Hornet-temied, an old Red-stick chief, who commanded the party which massacred Lieutenant Scott and his companions.

*Capture of St. Marks.* At St. Marks, General Jackson found a feeble Spanish garrison, but no enemy. He demanded of the commandant, that the fortress should be occupied by the American troops; while the latter was deliberating on this demand, and requesting time to communicate with his superior, the general entered the fort, hoisted the American flag, and shipped the Spanish authorities and troops to Pensacola.

*Arbuthnot.* Near St. Marks he found Alexander Arbuthnot, a Scotch trader from New Providence, who was carrying on an extensive intercourse with the Indians and negroes of East Florida. He had a store at the Sawaney villages, and was the owner of a small schooner, with which he carried on his trade between that place and the Bahamas. At this time, he had left his store and vessel in charge of his son, and came to St. Marks on the business of his occupation. The general seized Arbuthnot, and put him in close confinement; hung the two Indian chiefs taken on board M'Keever's vessel; left a small garrison in the fort; and on the 9th of April, marched for Bow-legs town, and the negro settlements on the Sawaney river.

*Sawaney settlements.* These were 107 miles in an easterly direction from St. Marks; and were the principal rendezvous of the parties, committing depredations on the Georgia frontier. On the 10th he was joined by the rear of the Tennessee volunteers, and M'Intosh's party. On the 16th a reconnoitering party of six mounted Indians was discovered, who immediately fled to the towns, and gave the alarm. The American troops arrived at sunset, killed eleven Indians and negroes, and took two prisoners. The next day the towns were destroyed; a considerable quantity of corn and cattle secured, and the adjacent country traversed in pursuit of stragglers. Arbuthnot's schooner was captured at the mouth of the Sawaney river, and employed to transport the sick, and baggage of the army, to St. Marks. On the 18th, General Jackson made prisoner of Robert C. Ambrister, late a lieutenant of marines in the British service, under Nicolls.

*Return to St. Marks.* The proceedings at Sawanay, the general considers as having terminated the Seminole war; which, as he states, had been rather a war of movements than of battles. The overwhelming force called into service upon this occasion, precluded the necessity of fighting; the enemy thought of nothing but securing their safety by flight. The Georgia militia and M'Intosh Indians were discharged; and on the 21st of April, the general, with the regular troops and Tennessee volunteers, commenced his return to St. Marks, and reached that place on the 25th, having performed a march of 107 miles, through the wilderness and swamps of East Florida, in five days.

*Ambrister.* The next object was the disposition of the prisoners, Arbuthnot and Ambrister. The nature and magnitude of their offences against the United States, appears from the following relation. In June, 1817, Arbuthnot had obtained a power of attorney from twelve Seminole chiefs, in very general terms, authorizing him to act in the affairs of their nation, as he thought proper. He had represented to the Red-st cks, or fugitive Creeks, and induced them to believe, that they would be supported by the British government, in a war with the United States, for the recovery of their lands. He had written to the British ministry, to their ambassador at Washington, and to the governor general of the Bahamas, soliciting assistance for this object. In his capacity of trader, he had sold the Indians powder and ball, which might be applied to the purposes of war, as well as of hunting. He had induced the Indians to make prisoners of Hambly and Doyle, two Spaniards, settled on the Apalachicola, friendly to the Americans, by representing that they were instrumental in bringing upon them the forces of the United States. While the army was on its march from Mickasuky to St. Marks, Arbuthnot being at the latter place, wrote a letter to his son, advising him of its approach, and that it was probably destined for Sawanay; and directing him to take the measures necessary to secure his property; to give information to the inhabitants, and advise them by no means to attempt to fight the Americans, but to save themselves by an immediate flight. In January, 1818, he wrote a letter to Governor Mitchel, American agent for the Indians in the southern department, endeavoring to avert the impending war, claiming that the Indians were not the aggressors, and praying that the excesses of which they had been guilty, might be overlooked, as the effects of an indignant spirit against an invading foe. Governor Mitchel

was so far convinced of the truth of these representations, that in his testimony in answer to an inquiry from the committee of the Senate, as to the causes of the Seminole war, he stated, that previous to the attack of Fowltown, aggressions were as frequent on the part of the whites, as of the Indians; and that that attack, in his opinion, was the immediate cause of the war.

Robert C. Ambrister was a young man of twenty-one, who had borne a lieutenant's commission in the British service, under Nicolls and Woodbine, and had remained in the Floridas as a kind of successor and agent to them. He had resided a considerable time at Sawanney, and pursued the same general system of measures in relation to the negroes and Indians as Arbuthnot had done, though not to the same extent, or in concert with him. When the alarm was given of the approach of the American troops, he put himself at the head of what Indians and negroes he could rally, broke open Arbuthnot's store, and distributed its contents, among which were some powder and ball, to his followers, and attempted to organize a party to go out and fight the Americans. Except in this attempt, in which he entirely failed, neither of the prisoners had borne arms, or committed any hostility, against the United States.

*Principles of warfare with Indians.* Notwithstanding the manner in which the Indians carry on their wars, by an indiscriminate murder of all who fall within their reach, authorizes any mode of retaliation which their enemy may think proper to pursue; the United States, in their hostilities with them, have never carried the principle any further than to destroy their habitations and means of subsistence, and in this manner intimidating them, and compelling them to retire at such distances from the frontier, as that they would be unable to renew their ravages. Death or corporal punishment in any shape had never been inflicted on a prisoner, with the consent of the government. A foreigner, taken in arms, is justly considered in the same light as an enemy with whom he is associated. Admitting that Arbuthnot and Ambrister, by their conduct, though neither of them were taken in arms, deserved the same treatment as the savages with whom they had connected themselves, there was no pretence for considering them in any more unfavorable light, or taking their lives, upon any principle of civilized or savage warfare. After the Indians and negroes were completely subdued, and not an enemy was to be found in arms in the Floridas, it remained a question exclusively for govern-

ment to determine, in what manner these two Englishmen were to be disposed of. The commanding general, however, did not think it necessary to trouble either congress or the executive with any questions on this subject.

*Court martial.* On the 26th of April he detailed a court martial, consisting of General Gaines as president, and six officers of the regular troops, and an equal number of Tennessee volunteers, as members, with orders to meet at twelve o'clock on the same day, "for the purpose of investigating the charges exhibited against Arbuthnot and Ambrister, and such others, similarly situated, as might be brought before them, and to give their opinion as to the guilt or innocence of the prisoners, and what punishment, if any, should be inflicted."

*Trial of Arbuthnot.* The charges preferred against Arbuthnot, were,

1st. "Exciting and stirring up the Creek Indians to war against the United States, he being a subject of Great Britain, with whom they were at peace :

2d. Acting as a spy, aiding, abetting, and comforting the enemy, and supplying them with the means of war : And,

3d. Exciting the Indians to murder and destroy William Hambly and Edmund Doyle, and causing their arrest with a view to their condemnation to death, and the seizure of their property, on account of their active and zealous exertions to maintain peace between Spain and the United States, they being citizens of the Spanish government."

The facts with regard to Arbuthnot's connection and intercourse with the Indians, as before related, were proved. Hambly was admitted to testify what the Indians told him in relation to the prisoner's conduct ; and Ambrister was rejected as a witness, on the ground that he was under arrest for similar charges.

The court decided, that the third charge was not within their jurisdiction ; that the first and second were proved except acting as a spy, and sentenced the prisoner to be hanged.

*Trial of Ambrister.* On the 27th the court proceeded to the trial of Ambrister, on the following charges :

"1st. Aiding, abetting, and comforting the enemy, and supplying them with the means of war. And,

2d. Leading and commanding the lower Creeks, in carrying on a war against the United States."

To the first charge, the prisoner pleaded not guilty. On the second, he admitted the fact, but denied that it was a

crime, for which he was liable to be arraigned and tried by a court martial. The facts, as have been before related, respecting Ambrister's conduct, were proved. The court, in the first instance, sentenced him to be shot ; but on reconsideration, revoked that sentence, and ordered him to receive fifty lashes, and to be confined to hard labor, with a ball and chain, for a year. On the 29th, general Jackson approved the sentence of the court, in the case of Arbuthnot, and approved the first sentence, as he termed it, of the court in the case of Ambrister, and disapproved of their reconsideration, and ordered both the prisoners executed the same day. In passing final sentence upon Ambrister, the general remarks, "it is an established principle of the laws of nations, that any individual of a nation making war upon the citizens of another nation, forfeits his allegiance, and becomes an outlaw and pirate."

The institution of this court, its proceedings and result, and the proceedings of the commanding general in relation to Ambrister, in annulling the final sentence of the court, and substituting one which they never had passed, were matters of much animadversion. However the victims might have deserved their fate, and although the United States might be benefited by making them an example, this was a proper subject of consideration for the government, and not for a court martial ; and it was a matter of great regret that a tribunal, established by law, for very different purposes, and having jurisdiction over the lives of American citizens, connected with the army, should be made the instrument of inflicting capital punishment upon persons, who could, under no pretence, be considered liable to such a sentence.

*Capture of Pensacola.* At St. Marks, the general learned that some of the fugitive Seminoles had crossed the Apalachicola, and taken refuge in West Florida. Adopting the principle that no hostile Indian was to be tolerated in any part of the Floridas, he determined to pursue his search through that province. Having garrisoned St. Marks with two hundred men, under major Fanning, he proceeded, on the 29th, to fort Gadsden, arrived there on the 2d of May ; on the 10th, crossed the Apalachicola, and after a march of twelve days, without finding an enemy, arrived on the banks of the Escambia, a short distance above Pensacola. Here the general received a spirited remonstrance from the governor of West Florida, against his entrance into the province, and approaching the town, as a violation of the rights

of Spain, amounting to an act of direct war, and threatening to resist him with all his force. The general had learned that some fugitive Indians from the east had passed through the town, obtained some provisions there, and escaped across the bay. This circumstance, together with a disposition to show the governor that his remonstrances were unavailing, induced him to march into Pensacola. On the 24th, he took possession without resistance, the governor and all the military force having sought refuge in the fortress of the Barancas, at the entrance of the bay, six miles below the town. On the 25th, the general invested the fort, and after a bombardment which continued, with some intermission, until the evening of the 27th, it was surrendered to the United States. The Spanish civil and military authorities, were transported to Havana; the American flag hoisted at Pensacola and the Barancas; and the province, occupied by general Jackson's troops. Colonel King, of the 7th infantry, was appointed civil and military governor, and captain Gadsden, collector of the port of Pensacola. The subordinate officers were to be appointed; the revenue collected, and the laws administered under the direction of Colonel King.

The general and his troops effectually scoured the eastern part of the province. Captains M'Girt, and Boyle, of the Alabama militia, were directed to raise a company of sixty mounted men each, and complete the destruction of the Indians in the western. Having made these arrangements, the general discharged his Tennessee volunteers, and returned to Nashville, leaving general Gaines in command.

*Orders to take St. Augustine.* On the 7th of August, he issued an order to general Gaines, that in case he could find proof that hostile Indians had been entertained, and supported by the Spanish authorities, at St. Augustine, the only remaining post in either of the Floridas, unoccupied by American troops, to march directly to that place. In communicating his proceedings to the war department, the general strongly recommends the retention of the Floridas, and the establishment of a cordon of posts in the territory, sufficient to crush any hostile movement.

*Proceedings of the executive.* On receiving official intelligence of these operations, the president called a cabinet council, consisting of the secretaries of state, treasury, and war; and proposed, for their consideration, the following questions:

"1st. Shall Pensacola be retained, risking all consequences at home and abroad?

2d. Shall the captured Spanish posts be restored, and general Jackson put on his trial before a court martial, for a breach of orders, and unofficer like conduct?

3d. Shall the posts be restored, and the acts of general Jackson disavowed, at the same time justifying the motive?"

The council decided that the posts should be restored, requiring of the Spanish government, that they should be garrisoned by a force sufficient to enable them to fulfil the stipulations of the treaty of 1795, and that general Jackson should not be tried by a court martial. In pursuance of this advice, Pensacola and the Barancas were immediately restored, and St. Marks ordered to be given up whenever a Spanish force, apparently competent to its defense should appear to take possession.

*Destruction of Chehawtown.* During the period of these operations in the Floridas, Governor Rabun, in consequence of depredations recently committed on the Georgia frontier, by a party of Indians from the towns of Philemmas and Hoppones on the Flint river, issued an order, on the 14th of April, to Captain Obed Wright, of the Georgia militia, then stationed on that frontier by order of the governor, to destroy those towns. An order of this description implies, that all the fighting Indians that can be found, should be slain, property of every description carried off or destroyed, the houses burned, and the non-combatants driven into exile. Unfortunately, Captain Wright, on his march was informed that the chiefs of the offending towns were at the Chehaw village, one of the principal towns of the M'Intosh Indians, on the same river, fifteen miles above fort Early, whose warriors were then with General Jackson in the Florida expedition. In consequence of this information, Captain Wright directed his march to this village, and executed his orders with exemplary severity, on its unarmed and unoffending inhabitants.

The surviving chiefs made a humble and pathetic representation of their distressed situation, to the United States agent, who immediately ordered the captured property to be restored, and assured them, in behalf of the government, that their losses should be remunerated, and the officer under whose orders it had been done, punished.

*Correspondence between Jackson and Rabun.* Intelligence of this event reached General Jackson on the 7th of May, on his march from St. Marks to Pensacola. He immediately wrote to Governor Rabun, stating "that it was strange and unaccountable that a governor of a state should



assume the right of making war upon an Indian tribe, at perfect peace, and under the protection of the United States. You, sir," the general adds, "as a governor of a state within my military division, have no right to give a military order while I am in the field. Captain Wright must be prosecuted and punished for this outrageous murder, and I have ordered him arrested and confined in irons, until the pleasure of the president of the United States shall be known upon the subject."

The governor, in reply, remarks, "Had you, sir, been in possession of the facts which produced the order, it is to be presumed you would not have indulged in a strain so indecorous and unbecoming. Wretched and contemptible, indeed, must be our situation, if it be a fact, as you state, that a governor of a state has no right to give a military order while you are in the field: when the liberties of the people of Georgia shall have been prostrated at the feet of a military despotism, then, and not till then, will your imperious doctrine be submitted to. You may rest assured, that if the savages continue their depredations on our unprotected frontier, I shall think and act for myself in this respect. You demand that Captain Wright be delivered to Major Davis in irons. If you, sir, are unacquainted with the fact, I beg leave to inform you that Captain Wright was not under your command. He having violated his orders in destroying the Chehaw village instead of the Hippones and Philemmes towns, I had, previous to receiving your demand, ordered him to be arrested; but before he was apprehended agreeable to my orders, he was taken by your agent, and afterwards liberated by the civil authority. I have since had him arrested and confined, and shall communicate the whole transaction to the president of the United States for his decision, together with a copy of your letter."

General Jackson replied, advising the governor to study the laws of his country, before he entered the lists of controversy with him on the subject of their relative powers and duties. The governor reciprocated this advice, by recommending to the general to examine the orders of his superiors with more attention than was usual for him, before he undertook to prosecute another campaign. This terminated their correspondence upon the subject. Captain Wright was seized and put in close confinement by Major Davis, under an order from General Jackson; and liberated by the civil authorities of Georgia, by a habeas corpus, on the ground, that that general had no right to imprison one

of their citizens who was not in the military service under his command. Governor Rabun, on the 29th of May, as captain general of the Georgia militia, under whose orders Captain Wright acted, caused him to be arrested and held in confinement, subject to such order as the president of the United States should give upon the subject. The president directed his trial before the circuit court for murder, and a warrant issued to the marshal to take him into custody. Captain Wright, in the mean time, broke his parol, fled, and avoided a trial.

*Views of the Seminole war.* The incidents of this Seminole Indian hunt, which has been dignified with the name of war, in a military point of view, are of very little consequence, and unworthy of a minute detail in a general history of the times. It eventuated in the slaughter of about sixty hostile Indians and negroes, with the loss of twenty of the McIntosh party. No white man was slain in the expedition. Seven hundred huts were destroyed, and their miserable and deluded inhabitants driven into exile. Two Indian chiefs, not taken in arms, but decoyed by stratagem on board an American vessel, were hung without ceremony or trial. Two English renegades suffered death by a military execution: the Floridas cleared of hostile savages, the Spanish authorities transported to Cuba, and the territory seized, and put under the military occupation of the United States. The peculiar characteristics of this war rendered it a subject of deep interest. On the one hand, the United States received great and essential benefits. The very extensive and exposed southern frontier was rendered secure from Indian depredations. The exemplary severity exercised upon the savages and their unprincipled advisers, were well calculated to strike terror upon tribes remote from the scene of action, and to deter savage whites from associating with Indians for the purpose of plunder and devastation.

But these advantages were purchased by a sacrifice of principle, which Americans hold too dear to be bartered for any such objects. They have a constitution, framed with great circumspection, to guard their rights from the encroachments of power. Every violation weakens its authority, and affords a precedent which may be perverted to the worst purposes. The danger increases in proportion to the high standing and popularity of the person by whom it is transgressed; and is much greater when done by a military than a civil officer. Pretenses of necessity, and an ostentatious zeal for the public good, are never wanting to jus-

tify the arbitrary exercise of power. That part of the constitution which delegates the power of the sword to the general government, is guarded with peculiar caution, and manifested in the sages who formed, and the people who adopted it, a great jealousy of military power. The militia are to be trained and officered by state authorities, and to be called into the service of the United States only in three specified cases. Congress alone can make war, and raise and support armies, and even that body can make no appropriation of money for that purpose for a longer term than two years; so that the necessity and expediency of war, and of raising and supporting armies, may pass in review before the immediate representatives of the people on every change of that body.

When the Tennessee volunteers were called into service, there was no law to authorize raising such a corps. The persons assigned to their command, having no legitimate commissions from the general government constituting them officers of such troops, could have no lawful authority to command them, or hold courts martial for the trial of capital offenses. The trial, condemnation, and execution of the two Englishmen found in the Floridas, for the charges alledged against them, was without authority either from the constitution and laws of the United States, or the principles of national law. The execution of the two Indian chiefs was unauthorized by any principles ever adopted by the United States towards that people. The military occupation of the Floridas was an unequivocal act of war upon Spain, without the shadow of authority either from congress or the executive, contrary to his express orders, and a measure which involved the United States in serious difficulties with that nation. On receiving intelligence of this event, the Spanish government demanded, that the act should be explicitly disavowed; that every thing should be restored to the state it was in before General Jackson entered the Floridas; that satisfaction should be made for all losses sustained, and the commanding general punished; and declared a suspension of all diplomatic intercourse until these demands were complied with.

*Mr. Adams' defense.* Mr. Adams, the American secretary of state, in a letter to Mr. Erving, the substance of which was to be communicated to the Spanish ministry, entered into an elaborate justification of the proceedings of his government. By the treaty of 1795, Spain had expressly stipulated to restrain, by force if necessary, the Indians within the limits of

her territories from committing acts of hostility against the citizens of the United States. Mr. Adams produced a series of undisputed facts, which clearly proved that the Spanish authorities in Florida, so far from regarding this stipulation, had instigated and encouraged the Indians and negroes within their limits to the most barbarous acts of murder and rapine; had furnished them with the means of annoyance, and protected foreign miscreants in aiding the savages in their work of destruction. This, Mr. Adams claimed, was a full justification to the Spanish government, for every measure which the American had adopted in relation to the Floridas, and would warrant any further reprisals which the safety of the citizens of the United States might require: and concluded with demanding satisfaction for the heavy expenses incurred in prosecuting the Seminole war, and the exemplary punishment of the Spanish officers under whose authority these events had taken place.

Arbuthnot and Ambrister being foreign emissaries, and principal instigators of the massacres done by the savages, their being put to death by an American officer, Mr. Adams contended, furnished no ground of complaint on the part of Spain, though done within her jurisdiction.

They being British subjects, their case was taken up and discussed in the British parliament; and the view there taken of it was, that as they had voluntarily left their own country, and joined the enemies of another, if taken, they were liable to be treated in the same manner as those with whom they were associated; and their military execution furnished no cause of complaint by the British, against the American government.

*Proceedings of congress relating to the Seminole war.* Soon after the commencement of the session of congress in December, 1818, the president communicated to both houses all the papers relating to the Seminole war. In the senate, they were referred to a committee of five, Burrell, Lacock, Eppes, King of New York, and Eaton. The three first concurred in a report censuring in severe and unqualified terms the conduct of General Jackson throughout. The two latter justified him. The report was made to the senate near the close of the session, and no vote taken upon the subject. In the house of representatives, the papers were referred to the committee on military affairs, consisting of seven members, four of whom concurred in a report of a similar character with that made to the senate. The other three presented a statement approving the general's con-

duct, and concluding with a declaration, that he deserved the thanks of the country. The subject afforded matter of discussion in the house for a considerable period of the session; and on the final vote, the report of the committee was disagreed to, and the general's conduct approved by a majority of 100 to 70.

The approbation of the president and senate has since been manifested, in his appointment to the offices of governor of the Floridas, and minister of Mexico; of the legislature of Tennessee, in appointing him to the senate of the United States; and of his fellow-citizens, in the electoral votes of 1824, which placed him highest on the list of candidates for the chief magistracy of the nation.

## CHAPTER VI.

View of the state of Europe—Comparison between the European and American principles of civil government—Progress of American principles in Europe—State of France after the battle of Waterloo—Disposition of Bonaparte, and his brothers—Meeting of a congress of European powers at Vienna, to adjust their claims to territory—Treaty of the holy alliance—The professions and views of the parties to it—The occasion of its being formed—The meeting of the allied sovereigns at Troppau, at Laybach—Their proceedings—Revolutions in Naples and Piedmont suppressed by Austrian forces—Meeting of the holy alliance at Verona—Their proceedings in relation to Spain, South America, and Greece—Conduct of England—Revolution in Spain suppressed by the French.

*American principles compared with European.* The family of civilized nations have so many interests in common, and the affairs of one are so often blended with those of another, that in order to a correct understanding of the history of any particular state, the most important cotemporary transactions of others must be kept in view.

The battle of Waterloo, the occupation of Paris by the allied powers, and their arrangements consequent thereon, put an end to a war of twenty-four years, the most extensive and sanguinary, as well as the most important in its consequences, that Europe ever witnessed. During this whole period, the correct principles of political economy, which had been established by the American revolution, and transplanted to Europe at the close of the war of independence, had been making a gradual advance in the minds of the people of that continent; and had taken such hold of their affections, as to render it impossible they should ever be eradicated. Scarcely had the European armies returned from the American contest, and been suffered to mingle with the people, than popular risings in favor of the principles of political liberty began to appear. These assumed a more or less formidable aspect, in proportion to the degree of information, and the means of resistance possessed by the people. They produced a uniform determination on the part of the ruling powers, to suppress them, not only each one in his own dominions, but by a combined and general effort.

The governing principles which sprang up in Europe in the dark ages, and prevailed under the denomination of the feudal system, were :

That the prince was the proprietor of all the territory of his kingdom : that the people held all their lands under him ;

That they were his vassals, and owed him a perpetual and unalienable allegiance ;

That the ultimate disposition of their persons and property was subject to his will ;

That either with or without the authority of the pope, the monarch was the head of the church, and in that capacity had right to prescribe creeds and forms of worship for his subjects, and compel a conformity by such pains, penalties, and disabilities, as he should think proper ;

That he possessed these high prerogatives, not by the consent of the people, but by a certain, hereditary, indefeasible, and divine right, subject to no control, and accountable to none for the manner in which he exercised his authority ;

That every privilege and franchise enjoyed by the subject, was from the free grace and bounty of the sovereign.

As a necessary appendage of this system, the press, and all other sources of information, were subject to the control of the government, who were careful that no instruction inconsistent with these principles, should ever be communicated to the people.

The act which separated the American colonies from their parent state, placed an enlightened and intelligent community of three millions, in a situation to establish a government for themselves, no individuals, class, or description of men, having any exclusive rights, privileges, or claims of superiority over their fellows. A situation so novel, and so happily adapted to the liberation of the people from the manacles of European despotism, was wisely improved by the framers of the American systems of government. They laid aside at once every thing savoring of the monarchical notions of the eastern continent ; and adopted the simple principle of perfect equality of rights among all the citizens. Their leading features were :

That all legitimate civil government emanated from the people, and was designed for their good.

That those selected to administer the government, had no powers but what were delegated to them by the people, under the constitution from which they derived their autho-

rity, and were themselves amenable to the laws which they should enact.

That there should be no privileged orders, of any description.

That the enjoyment of religious opinions and worship should be perfectly free, and no citizen should be subject to any penalties or disabilities, on account thereof.

And, as a necessary appendage of this system, that the press, and all other sources of information, should be unrestricted.

The contest between these systems, the measures which the sovereigns of Europe have taken to establish their own, and extirpate the opposite, and the manner in which they have been resisted, form an interesting portion of American history.

*Confinement of Bonaparte at St. Helena.* On the return of Bonaparte from the battle of Waterloo, a short negotiation took place between him and the existing authorities of France, in which he attempted to confer the crown on his son; but which ended in an unconditional abdication of the throne. In that negotiation it was stipulated that he should be provided with two frigates, to convey himself, his adherents, and his effects, to the United States. The ships were provided, but the vigilance of the English cruisers prevented their putting to sea. Bonaparte, as a choice of evils, rather than fall into the hands of his enemies in France, voluntarily put himself on board the *Bellerophon*, a British seventy-four, under the command of Captain Maitland. This event presented a new and singular question for the consideration of the allied sovereigns. In what manner should the person of the ex-emperor be disposed of? For twelve years he had belonged to the family of kings, and been recognized by them, as one of their number. Peace being established with France, he could in no sense be considered a prisoner of war; the detention of his person, therefore, could not be justified upon any acknowledged principles of national law. He could not be landed on the British shores, or brought within the jurisdiction of their courts, without being liberated by a process which sets at liberty every person detained in custody, without legal authority. In this instance, the great law of self-preservation superseded all other considerations. To release him, would probably produce further convulsions in Europe. The commander of the ship to whom he surrendered, was ordered not to approach within three leagues of the shore, and the



British government, in concert with their allies, ultimately determined on the perpetual detention of his person. The island of St. Helena was selected as the place of his confinement. He was conducted to this spot, a rock of about thirty miles in circumference, in the Atlantic ocean, twelve hundred miles from any continent, in the southern tropics, by a squadron of British ships, and there confined, with half a dozen attendants, during the remainder of his life. Foreign ships were prohibited access to the island. French, Russian, Austrian, and Prussian commissioners constantly resided there, to witness his safe custody. Twenty-five hundred men, under the direction of Sir Hudson Lowe, civil and military governor of the island, and a squadron of British ships, under the command of Admiral Cochrane, were employed to guard his person. This extreme solicitude, on the part of the allied sovereigns, to confine the person of Bonaparte, bore the highest testimony in favor of his talents, and at the same time indicated, in unequivocal terms, the precarious tenure by which, in their own estimation, they held their authority.

*Restoration of the Bourbons.* The next consideration of the allies, was the organization of the French government, in such manner as most effectually to eradicate revolutionary principles. To this end, the Bourbon dynasty, with all its appendages, was to be restored. According to the European theory of the monarchical system, the stroke which terminated the life of Louis XVI., devolved the crown on his son, the dauphin, who, in the dungeons of the Conciergerie, became king of France, under the title of Louis XVII. This unfortunate youth, in a short time followed his father to the tomb of the Capulets; and the regal sceptre, with all its hazards, came to the hands of the eldest brother of Louis XVI., then residing as a private gentleman at the village of Hartwell, in England, who became king of France, under the title of Louis XVIII. He continued his residence at Hartwell, enjoying the title, without any other appendages of royalty, until the expulsion of Bonaparte to the island of Elba, in 1814, when, by the aid of the allied powers, he took possession of the throne. Within a year, he yielded it to Bonaparte, without a struggle. The last reign of the emperor continued from April to June, 1815, when Louis was again called from his retreat, to the monarchy of France.

*Treaty of Paris.* The numerous revolutions, which followed each other in quick succession, had shaken the belief

of the people of France, in the divine right and hereditary succession of kings. The energy of Napoleon had exhibited a striking contrast with the weakness and inactivity of the Bourbons. The revolutionary flame, though smothered, was by no means extinguished. By the treaty of Paris, of the 20th of November, 1815, between France, Great Britain, Russia, Austria, and Prussia, the limits of France, with few exceptions, were reduced to the state they were in before the commencement of the revolution. Louis XVIII., as the price of his restoration, and to defray the expenses of supporting a foreign army in France, stipulated to pay the allied powers seven hundred millions of francs;\* and the allies, on their part, engaged to furnish an army of one hundred and fifty thousand men, under the command of the Duke of Wellington, to occupy the principal posts in France, for five years, for the purpose of keeping down the revolutionary spirit, maintaining the royal authority in the Bourbon dynasty, and preventing the spread of anti-monarchical principles. The remains of the French imperial army, which survived the battle of Waterloo, were disbanded. Marshal Ney, and General La Badoeyere, were shot, and several other officers of distinction exiled, for their fidelity to the emperor. The French people, overawed by these measures, and exhausted by revolutions, submitted: and the opposition to the ancient despotism was so effectually subdued, that the allies, at the end of three years, ventured to withdraw their troops.

*Disposition of the Bonaparte family.* The family of Bonapartes, which Napoleon had raised from obscurity to kingly authority, were glad to seek their personal safety in retirement. Joseph, king of Spain, found an asylum in the United States, at the village of Bordenton, on the left bank of the Delaware, where, with the title of Count de Surveilliers, he enjoys a dignified retirement; and intermeddling in no shape with the politics of the country, sustains the character of a respectable citizen, and an amiable private gentleman. Louis, and Jerome, ex-kings of Holland, and Westphalia, became private citizens in different parts of Europe. Murat, their brother-in-law, in endeavoring to regain his kingdom of Naples, was seized by the inhabitants of Calabria, condemned by a military tribunal, and executed. Lucien, the only one who had not been vested with kingly

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\* One hundred and thirty-one millions of dollars.

authority, remained at Rome until March, 1817, when he applied for passports to the United States. A solemn conference on this subject was held at Paris by the allied powers of England, Austria, Russia, and Prussia, when it was determined that his removal to America would be hazardous to their repose; that neither he nor any of his family should be permitted to leave Europe, and that to prevent their escape, they should be removed from Rome into the interior. What this isolated individual, without friends or funds for any important enterprize, could do to jeopardize the monarchies of Europe, is difficult to conceive. The anxiety of the allied powers on this occasion, formed a striking contrast with the liberal spirit of the American republic, which freely permits its citizens to depart whenever they please, and invites to its shores, emigrants of every character, entertaining no fears that their machinations can disturb the foundations of its government.

*Congress of Vienna.* After settling the affairs of France, the allied monarchs held a general congress at Vienna, to regulate the concerns of the minor European governments. With little regard to the interests or wishes of the people; they were transferred from one to another in such manner as in the view of the allies, would most effectually prevent the further progress of revolutionary principles. The Belgic provinces were united with the states of Holland, both constituting the new kingdom of the Netherlands, and given to the prince of Orange, the former stadtholder of Holland, who had distinguished himself in the cause of the monarchs and who now became one of their number, under the title of king of the Netherlands. Various dispositions were made in relation to the principalities of Germany; the Italian states were placed under the tutelage of Austria; and the Russian autocrat took charge of the despotism of the north.

Previous to their leaving Paris, the emperors of Russia and Germany, and the king of Prussia, personally entered into a solemn covenant with each other, denominated the **HOLY ALLIANCE**. This memorable instrument bears date at Paris, the 26th of September, 1815; signed, Francis, Frederick William, and Alexander. They solemnly declare, that "they have no other object in view, than to show, in the face of the universe, their unwavering determination to adopt for the only rule of their conduct, both in the administration of their respective states, and in their political relation with

every other government, the precepts of justice, of charity, and of peace."

They stipulate,

"1st, That in conformity with the words of the holy scriptures, which command all men to regard one another as brethren, they will remain united by the bonds of a truce and indissoluble fraternity; and considering each other as co-patriots, they will lend one another on every occasion, and in every place, assistance, aid, and support, and regarding their subjects and armies, as the fathers of their families, they will govern them with the spirit of fraternity, with which they are animated, for the protection of religion, peace, and justice.

"2d. The only governing principle between them and their subjects, shall be that of rendering reciprocal services; of testifying by an unalterable beneficence, the mutual affection with which they ought to be animated, of considering all as only the members of one Christian nation, the three allied princes looking upon themselves as delegated by providence to govern three branches of the same family, to wit, Austria, Russia, and Prussia, confessing likewise, that the Christian nations, of which they and their people form a part, have really no other sovereign than him to whom alone power belongs of right, because in him alone are found all the treasures of love, of science, and of wisdom; that is to say, God, our divine Savior Jesus Christ, the Word of the Most High, the Word of life. Their majesties therefore recommend with the most tender solicitude to their people, as the only means of enjoying that peace which springs from a good conscience, and which alone is durable; to fortify themselves every day more and more, in the principles and exercise of the duties which the divine Savior has pointed out.

"3d. All powers which wish solemnly to profess the sacred principles which have dictated this act, and who shall acknowledge how important it is to the happiness of nations, too long disturbed, that these truths should henceforth exercise upon human destinies all the influence which belong to them, shall be received with as much readiness as affection in this holy alliance."

The king of France soon became a party to this strange combination. The British ministry, jealous of the increasing power of Russia, and not fully understanding the precise import of a treaty containing only general expressions of good will to the human family, declined becoming a party

to it. Philanthropists, in Europe and America, hailed it as a new era in which the sovereigns of three great empires, controlling the destinies of the eastern continent, had associated together, under a solemn covenant, to make the happiness of their subjects, and the peace of Europe, their ultimate object, and the gospel the rule of their conduct. The more cautious politician considered, that the views of these monarchs, in making this ostentatious declaration of their philanthropy, could only be learned by its future results. Francis, Frederick William, and Alexander, were doubtless inferior, in point of talents, to hundreds of their subjects; but by virtue of principles, growing up in ages of ignorance and barbarity, having for their foundation the hereditary and divine right of kings, possessed each a personal income for his own private emolument, of greater amount than the whole civil list expenditure of the United States. They enjoyed a complete exemption from all accountability to human tribunals. They possessed the power of making war and peace at their pleasure, and of commanding the resources, and population of their respective nations for the purposes of their own aggrandizement. The principles of civil liberty which must eventually destroy this baseless fabric, had been implanted in the United States, and flourished for nearly half a century. Every year increased their extent, and permanency. They had sprung up in South America, were beginning to appear in Greece, and though the arms of the allied powers had crushed them for a season, in France, they still existed in the hearts of Frenchmen. Men of intelligence and reflection, in every part of Europe, felt their force, and the sentiment was becoming generally prevalent, that though it might not be prudent or proper to throw off at once the shackles of the monarchical system, yet its operations ought to be restricted by legislative assemblies, elected by the people. A fortuitous concurrence of circumstances had brought together, at Paris, the three principal despots of Europe, who held its destinies in their hands; and they were not disposed to separate without taking some measures to perpetuate their power, and arrest the progress of public opinion. Under the specious pretext of a holy alliance, formed for the repose and happiness of Europe, their union was in truth a conspiracy against its liberties. South America has been threatened, and several of the minor European powers have experienced the direful effects of this misnamed holy alliance.

The guardian genius of the United States induced a decla-

ration on their part that this conspiracy of kings must in no wise interfere with the establishment of the sacred principles of American liberty, in the western continent. A connected view of the proceedings of the holy alliance, so far as they were directed to the extirpation of American principles of free government, down to the year 1822, is thought preferable to an interrupted narration.

*Meeting at Troppau.* After the separation of the parties to the holy alliance, in 1815, no formal meeting of the body was held until 1820. Each monarch contented himself with individual exertions within the sphere of his influence to promote the main object. On occasion of the formation of a constitution in France, similar in its principles to the English system, the king, under the direction of his associates in this alliance, rejected it, discarding altogether the idea of the people's forming a constitution for themselves. The state of the national feeling, however, compelled him to grant his subjects, as a mere gratuitous act, the form of a constitution, containing few of the principles of civil liberty.

On the breaking out of the revolutionary spirit in the south of Europe, in 1820, the emperor of Russia called a meeting of the holy alliance at Troppau, a city of Austrian Silesia, on the 26th of October, 1820. The European powers who had not, in form, joined this league of sovereigns, were invited to attend. After a conference of a few weeks, they published a manifesto, in which they state, "that the overthrow of the order of kings in Spain, Portugal, and Naples, had necessarily increased the cares and labors of the powers who had combated the revolution, and convinced them of the necessity of putting a check to the new calamities with which Europe was threatened. Without doubt," they say, "the powers have a right to take in common, general measures of protection against those states whose reforms, engendered by rebellion, are opposed to legitimate government." They profess to desire only to maintain tranquillity, to protect Europe from the scourge of new revolutions, and prevent them as far as possible. They ground their right of interference in the affairs of other nations, upon treaties between themselves, to which these nations were not parties: a proposition which bears its own refutation on the face of it. The congress then adjourned to Laybach, a city of Austrian Illyria, forty miles northwesterly of Vienna, for the purpose of obtaining a more full representation, and taking more effectual measures to check the rising spirit of liberty in the south of Europe.

*Meeting at Laybach.* This meeting assembled in January, 1821, and composed one of the most august assemblies ever convened in Europe. The emperors of Russia, and Germany attended in person, the former assisted by eleven, and the latter by six of his ablest counsellors. England, France, and the two Sicilies sent three ministers each; Prussia and Sardinia two; and Tuscany, Modena, and the states of the church one each. The business of this congress, as it respected the rights of legitimacy, was of mighty import. In the year which had just closed, the contest between the right of self-government in the people on the one hand, and the monarchical claim of an hereditary right to govern on the other, had assumed an interesting character, and appeared to be coming to a crisis. Spain, Portugal, and the whole of Italy, except the states of the church, and the Austrian dominions, were in a progress of revolution, and with less internal commotion than usually attends such events, were rapidly advancing to a condition in which the people would enjoy a portion of civil liberty. It was obvious that this system, unchecked, would soon diffuse itself into other nations, and eventually put down the hereditary monarchical system. It was the business of the congress of Laybach to arrest the progress of this spirit. To aid them in this work, they had in the

1st place, a numerous and powerful hereditary nobility, whose title to honor and distinction rested on the same basis with their sovereign.

2d. A numerous host of office holders, dependent on the crown for employment and bread.

3d. Large standing armies, officered, paid, and fed by the prince, and ever obedient to his will.

4th. Extensive religious establishments, deriving their authority and support from the crown, employed to keep the people in ignorance of their rights, and to inculcate the doctrines of passive obedience to the will of the sovereign, and implicit faith in the dogmas of the church.

5th. A numerous class of public creditors, whose property in the funds depended upon the existence of the government, in its present form.

*Opposition to revolutionary principles.* The progress of political reformation had also to contend with the apprehensions of men of property, that a revolution would render their possessions insecure; and with the fears of all, that anarchy, misrule, or a more confirmed despotism, might be the ultimate result. Operated upon by these fears, a large

portion of the community were induced to prefer the deprivation of their liberties, to the hazards of a revolution. Indeed, were it not for these apprehensions, the present monarchs of Europe would probably be the last of their race. To contend with this host of enemies, the American theory of civil government, in its progress among other nations, had no aid, but what was derived from the force of truth and right reason, presented to the understandings of the people of Europe. There were also some radical defects in the forms of government which the revolutionary states were about to adopt, which must be amended, or their duration would be short. Their legislatures, under the denomination of juntas, cortes, and parliaments, were to consist of but one house, and that a numerous one. Such a body, passing laws by acclamation, as they generally did, on the suggestion of some leading, and often intriguing member, was very unfit to govern a nation, and would soon become an instrument in the hands of wicked men, of tyranny, in its worst forms. The example of the French nation, in the early periods of its revolution, evinced the utter incompetency of such bodies, to the purposes of correct legislation. Forty years' experience in the American republics, had proved that a legislature consisting of two branches, sitting in separate chambers, each having a check on the other, united in itself all the valuable properties of government.

Notwithstanding these examples, the inhabitants of the south of Europe were disposed to make the experiment of a legislature, consisting of the representatives of the people, convened in one chamber. The revolutionists in Naples had taken measures calculated to provide a remedy for this defect. In the early stages of their progress, they dispatched an intelligent man to the United States, to obtain information in relation to their political institutions, the structure of their government, the principles upon which it was administered, and its practical effects. This gentleman, in the capacity of a private traveller, and mostly as a pedestrian, visited many of the principal towns, and most of the seats of legislation, in the United States, noting, with great attention, their political institutions. The information thus obtained, must have led to a new modeling their system; but before his return, the Austrian bayonets, under the direction of the holy alliance, had put an end to the revolution in Italy.



*Resolutions of the congress at Laybach.* At the congress of Laybach, the three monarchs, of Russia, Austria, and Prussia, published an exposé of their views in relation to the state of Europe. The principles advanced in this extraordinary paper, are calculated to excite the astonishment and alarm of the friends of liberty, and the rights of man, throughout the world. They say,

1st. That an hereditary monarchy is the only legitimate government.

2d. All reform, or melioration of the condition of the subject, must proceed from the free grace of the sovereign.

3d. Any attempts at reform, not proceeding from this source, are to be considered as treason and rebellion, and to be put down by the sword.

4th. It is the right and duty of the legitimate monarchs of Europe, to unite in support of each other, and in putting down the revolutionary spirit, in every nation.

These doctrines, boldly advanced under the signatures of the original parties to the holy alliance, develop the hidden meaning of that instrument, the views of its framers, and the manner in which they were to preserve the peace of Europe. The citizens of the United States were not without apprehensions, that this combination against the liberties of mankind, might extend its influence and exertions to America. So long as its operations were confined to the eastern continent, Americans had nothing to do, but to sympathize with its suffering inhabitants. Great Britain, though often solicited, stood aloof from this conspiracy; her ministers attended the congresses at Troppau and Laybach, not for the purpose of uniting with them, but of remonstrating against their proceedings. They declared a strict neutrality, in relation to the commotions in the south of Europe, and denied the right of any power to interfere in the internal affairs of other nations.

*Naples.* The attention of the congress at Laybach was particularly directed to the suppression of the revolutionary spirit in Naples. That kingdom, embracing all Italy, south of the Papal territory, and the island of Sicily, and containing a population of six millions, had adopted as their system of government, a limited monarchy, and a parliament, containing a representation of the people, after the model of the Spanish constitution, of 1812. King Charles, an infirm and feeble minded old man, of upwards of seventy, had sworn to support this constitution, and given up the active concerns of government to his son, the Duke of Calabria.

who had also added the sanction of his oath to the constitution. The affairs of this kingdom seemed to be settling down into a happy state of quietude, under the form of a limited monarchy, satisfactory both to the prince and people, when the holy alliance took them into their keeping. The king was pressingly invited to attend the congress at Laybach, seconded by private letters from his son-in-law, the emperor of Germany, and from the king of France. Prevailed upon by these intreaties, and in the hope of preserving the peace of his kingdom, he consented. Before he left Naples, he assured the parliament that nothing should be agreed to on his part, to the detriment of the nation; nothing which should impair the fundamental principles of the constitution, which he had sworn to support. At his request, four commissioners were appointed by the parliament, to attend him as counsellors, and see that nothing was done to jeopardize their rights. On his arrival at Laybach, his counsellors were dismissed, and he compelled to disavow all the proceedings of the revolutionists. In the mean time, an Austrian army of sixty thousand men, supported by a Russian reserve of a hundred thousand, crossed the Po, on their advance upon Naples. The king was compelled to write to the Duke of Calabria, and the parliament, directing them to accede to the views of the allied monarchs, and receive the Austrian troops as friends.

These propositions were indignantly rejected by the parliament; the king declared to be in a state of captivity, and measures taken for a vigorous defense. A large Neapolitan army was raised, and placed under the command of General Pepe; but this force, without discipline or courage, and destitute of efficient officers, disbanded at the approach of the Austrians, who took possession of the capital with little resistance, and put an end to the revolution. Opposition to the claims of despotism in the dominions of the king of Sardinia, and in other parts of Italy, yielded to the same impulse. The Italians, long oppressed by despotic rulers, kept in ignorance by a bigoted clergy, and enervated by a warm climate, were ill prepared to encounter the storms of revolution, or meet in the field the veteran troops of the north. The authors of the revolution in the Italian states sought personal safety by flight or submission, and the ancient despotism was restored in all its rigor. Alexander in the north, in the vigor of life, the only monarch in Europe of any distinguished talents, the complete despot of fifty

millions of warlike subjects, and at the head of this holy alliance, became as formidable to the liberties of mankind, as ever his great competitor Bonaparte had been in the south; and it had become evident, that Europe gained nothing by the victory of Waterloo, but a change of masters.

The congress at Laybach contented themselves with denouncing the revolution in Spain and Portugal, without taking any decisive measures for its suppression, but gave notice of a meeting the next year, when the affairs of the peninsula would be the subject of their particular consideration. It seemed to be their policy to attack the revolutionary spirit in its weakest points, expecting that when Spain saw its extinction in Italy, she would yield to the impulse, and not contend with the arms of the holy alliance when directed solely against her.

*Revolution in Spain.* The next meeting of the European powers constituting the holy alliance, agreeable to an intimation given at Laybach, commenced in September, 1822, at Verona, a city in the dominions of the emperor of Austria, in the north of Italy, sixty miles west of Venice. The monarchs assembled, either in person, or by their ministers, were the emperors of Russia and Austria, and the kings of France, England, and Prussia. The political state of Spain was the principal subject of consideration at this congress. For the last thirty years this nation had borne her full share of suffering. Her calamities had been increased by the weakness of her king. Charles IV., indolent, without talent, and devoted to pleasure, had abandoned the government to his son Ferdinand VII., a bigoted despot, subject to the control of a fanatic and wicked priesthood. Before his character had fully developed itself, Bonaparte decoyed both the father and son into France, under pretence of a friendly interview; made them prisoners, and placed Joseph on the throne. In the mean time, the spirit of liberty had taken deep root: the cortes, an assembly of the representatives of the people, collected, and with the aid of England, resisted the usurpation of the Bonapartes. A long and desolating war between Joseph and his adherents, assisted by Napoleon; and the cortes, aided by England, ensued, which terminated in the expulsion of the French usurper, and the restoration of Ferdinand, under an assurance that he would govern the kingdom on the principles of a free constitution, formed by the representatives of the people. But no sooner had he got possession of the throne,

than he gave himself up to the direction of monks, re-established the inquisition, refused his assent to the constitution of the cortes, and governed the people who had sacrificed every thing for his restoration, with the despotism of a bigoted tyrant. This course involved the nation in a ruinous civil war, which continued with various success, and with some intervals, until March, 1820, when it ended in the complete success of the cortes. A constitution of civil government which had been formed in 1812, by the provisions of which the representatives of the people enjoyed a share in the government, was reluctantly assented to by Ferdinand, and by his proclamation of March, 1820, declared to be the basis of civil government in his kingdom. Peace was now restored, and Spain, under a limited monarchy, might have enjoyed a degree of liberty, and recovered her strength, but for the interposition of the holy alliance. No sooner had the news of the events of the fifth of March, 1820, reached Petersburg, than the emperor Alexander, in a communication to the Spanish minister at his court, denounced it as a wicked conspiracy of the people against their lawful sovereign, and in a circular to the other courts in Europe, called upon his associates to unite in its suppression.

The result of the deliberations at Verona on the subject of Spain was, that the revolutionary spirit must be put down; that the king must be restored to his absolute authority; that the cortes must be abolished, or rendered harmless by the annihilation of its powers; and that the Spanish hierarchy must be re-established. To these demands of the allied monarchs, the existing authorities in Spain interposed their indisputable right of establishing whatever forms of government they chose, subject to no interference of foreign powers. The cortes declared that they had never made any attempts to enforce their political system upon other nations, had made use of no fraud or force to seduce or intimidate the subjects of other powers, and would suffer no nation to impose a form of government upon them.

The manifestoes of the allied sovereigns all spoke one sentiment, the dictate of the Russian autocrat. They affected to consider the revolution in Spain, which limited the powers of the king, and established a national legislature, under the denomination of a cortes, as a wicked conspiracy against their legitimate sovereign. They claimed that the general tranquillity of Europe, as well as the pre-

servation of peace in their own dominions, required them to arrest the further progress of anti-monarchal principles; and in the end, required of the cortes to restore the king to his former authority, and to give up their usurped powers, as the condition upon which they would continue their friendly relations with Spain. When this was done, they intimated that the king might grant his subjects some privileges and immunities from his royal bounty. These propositions were indignantly rejected; the ministers of the allied powers withdrew from Spain, and the task of subjugating the nation was assigned to France, to be assisted, if occasion should require, by the other powers. This measure, the Russian cabinet afterwards exultingly claimed, was all their own; and was a master stroke of policy, as it answered the double purpose of subduing the revolutionary spirit in Spain, and preventing its progress in France.

*Proceedings of Great Britain.* The British ministry took a different course; they had never become parties to the holy alliance, they had attended its meetings, rather as a corps of observation, than a component part of the body; they had opposed most of its prominent measures. They denied the right of the allied powers to interfere in the internal affairs of Spain, and determined to maintain a strict neutrality in the expected war.

*Invasion of Spain by a French army.* To be in readiness to execute the decrees of the congress of Verona, the king of France collected a large force on the frontier of the Pyrenees, denominated a cordon sanitarie, under pretense of preventing the introduction of a contagious disease, which prevailed in some towns on the Spanish frontier. At the solicitation of the cortes, England attempted a mediation between them and France. The basis of her propositions were, that Spain should new model her constitution, by establishing two chambers in her legislature, and investing the king with greater prerogatives than were contained in the constitution of 1812; and that on these conditions, there should be no hostile interference on the part of France. The mediation proved ineffectual, the French government, requiring as a preliminary, that the king should be restored to his ancient authority, conceding that he might then grant to his subjects such privileges as he should think proper. Negotiation being ended, the cordon sanitarie was suddenly transformed into an army of invasion, augmented to the number of 100,000, and the Duc d'Angoulême appointed to its chief command. Previous to entering the Spanish

territory, he established his head quarters at Bayonne, the nearest town of any note to the Spanish lines, where he assembled a number of royalist Spaniards, and appointed them to the regency of Spain, during what he had termed, the captivity of the king. He entered Spain in the month of April by their invitation, and invested the fortresses of St. Sebastian, Pampeluna, and Figureos, but without stopping to reduce them, he hastened with the main body, to Madrid. General Asbidal, to whom the defence of that city was intrusted, gave it up without an effort, and joined the royalists. The cortes retired to Seville, and from thence to Cadiz: on the king's refusing voluntarily to accompany them, they suspended his authority, appointed a regency, and took him with them by force. At Cadiz, they restored him to his constitutional authority, and prepared for the defence of the city. The Duc d'Angoulême proceeded with his main army from Madrid to Cadiz, entered it on the 29th of September, and reduced the constitutionalists to unconditional submission. The cortes were dispersed, Ferdinand reinvested with his absolute power, and the former regime restored with increased severity. An unrelenting proscription of the civil and military authorities under the constitution followed.

*Conduct of Ferdinand.* While Ferdinand was with the cortes, his addresses declared in the most unequivocal terms, his determination to support the constitution of 1812, to resist the invasion to the utmost, and never to submit to the dictation of foreign powers; he had at the same time, secretly encouraged the French, and when reinstated by them, he eagerly seized the reins of absolute government, and declared all his acts since the 9th of March, 1820, void. In attempting to maintain the liberties of Spain, the cortes had to encounter insurmountable obstacles; a treacherous king, an unfaithful general, a divided people, and an invading army of an hundred thousand men, supported by all the weight of the holy alliance. Their feeble and unsuccessful efforts served only to strengthen the chains of despotism.

*Principles relating to privateering.* At the commencement of this contest, the French government adopted a new principle favorable to commerce, and tending to mitigate, in some measure, the calamities of war. They declared that they would grant no commissions to privateers, and that neither the commerce of Spain itself, nor of neutral nations should be molested by the naval force of France, except in the breach of a lawful blockade. This principle, so con-

genial with the views of the American government, the president attempted to establish by treaty with the European powers as a permanent rule in all future maritime wars, and gave instructions to this effect to the ministers of the United States, in France, Great Britain, and Russia ; but the attempt proved unsuccessful.

During the session of the congress at Verona, representatives from Greece appeared before them soliciting their friendly interference in the contest with the Turks ; but the views of that people, so ill-accorded with the principles of the holy alliance, that they were not even allowed to present their case before that body. To the application of Spain for their influence and assistance in regaining possession of her colonies in South America, the allied sovereigns gave a ready attention. The emperor of Russia offered his mediation, proposing that the authority of Spain should be re-established, and the colonies compensated by a grant of some commercial privileges. But these republics, assured of the friendship of Great Britain and the United States, rejected these propositions with disdain ; and declared that any terms which did not contain an acknowledgment of their independence were inadmissible. The complete success of the holy alliance, in subduing the revolutionary spirit in the south of Europe, seems to have riveted the chains of despotism in that hemisphere, in a manner not soon to be broken. The recent death of the emperor Alexander, the head of this combination, will probably operate as a check upon their exertions ; and may dissolve the confederacy. The views of his successor on this subject, have not yet been developcd. The American policy, adopted by Washington, recommended by him to his successors, and followed by every administration since, forbids their interfering in the political systems of other nations.

## CHAPTER VII.

First meeting of the 15th congress—Message—Revolutionary pension law passed—An attempt to bribe the committee of claims—Proceedings against Colonel Anderson for contempt—Beaumarchais claim—Bank of the United States mismanaged—Speculations in its stock—Its embarrassments—A change of directors—Langdon Cheves president—Its credit restored—Judicial decisions on constitutional questions—Hunter's case—Question on the immunities of consuls—On the enlistment of minors without the consent of their parents—On the liability of the United States bank to be taxed by state authorities—On the constitutionality of state insolvent laws—Organization of the district of Columbia—Cohens against the state of Virginia on the sale of lottery tickets—Steamboat case decided.

*Congress.* The 15th congress convened on the 1st of December, 1817. The house of representatives organized itself by the re-election of Mr. Clay to the chair, by one hundred and forty-four votes, out of one hundred and fifty. The message, delivered on the 2d, contained a representation of the state of the nation, both in relation to its foreign and domestic concerns, highly gratifying to its citizens. The receipts at the treasury, owing to the extraordinary importations immediately succeeding the war, much exceeded the estimates, and enabled the president to recommend the repeal of all the internal duties, and taxes, without any hazard to the public credit. The president, in his late northern and western tour, had fallen in with many of the officers and soldiers of the revolution, his companions in arms, verging towards the close of life in poverty and distress. Such a scene, in the midst of a country enjoying wealth and independence, attained by their exertions, was calculated to excite the tenderest emotions. Under the influence of these feelings, in his first address to the representatives of the nation, he recommended the case of this portion of the American family to the liberality of their government. Towards the close of his message, he remarks, that, "in contemplating the happy situation of the United States, our attention is drawn, with peculiar interest, to the surviving officers and soldiers of our revolutionary army, who so eminently contributed, by their services, to lay its foundation. Most of these meritorious citizens have paid the debt of nature, and



gone to repose. It is believed that among the survivors, there are some not provided for by existing laws, who are reduced to indigence, and even to real distress. These men have a claim on the gratitude of their country, and it will do itself honor to provide for them. The lapse of a few years more, and the opportunity will be lost for ever." In the prosperous state of the country, and with an overflowing treasury, congress readily seconded the views of the president on this subject, and passed a law allowing a pension to every officer and soldier who served on the continental establishment, in the army or navy, in the war of the revolution, for the term of nine months, or upwards, and who was then a citizen of the United States, and stood in need of the assistance of his country for support, if an officer, of twenty dollars, and if a private, of eight dollars per month, during life. A liberal construction, put by the secretary at war upon the indefinite expression in the act, describing the objects of its bounty to be such as "stood in need of the assistance of their country for support," embraced within its purview nearly all the surviving officers and soldiers of the revolution. A very great proportion of them were in a state of real poverty, and there were but few, who did not, in their own opinion, stand in need of the assistance of their country for support; the applicants, consequently, embraced nearly the whole of the survivors, and amounted to about thirty thousand. It was impossible for the secretary to be acquainted with the circumstances of each case, so as correctly to decide on its merits. A much greater number having been admitted to the benefits of the law than were expected, and many who, in the opinion of congress, were never intended to be embraced within its provisions, an explanatory act was passed the succeeding session, more definitely describing the circumstances of the persons to be admitted, and limiting the pension to those only who were destitute of the means of support, and in a state of absolute poverty. Considerable numbers were consequently stricken off the list.

*Colonel Anderson's case.* In the course of the session, an important constitutional question arose in relation to the privileges of the house of representatives, and its power of punishing for contempts. Colonel John Anderson, a native of Scotland, and an inhabitant of Frenchtown, on the river Raisin, whose house had been burned, and property destroyed by the British and Indians, under Proctor, in the late war, while attending on congress, seeking compensa-

tion in behalf of himself, and other sufferers from the same source, addressed a letter to the chairman of the committee of claims, while his were pending before that body, proposing to give him five hundred dollars, in the event of a speedy and successful determination on them. The chairman immediately communicated this letter to the house, and an interesting debate took place on the subject of their constitutional powers. On the one hand, this attempt at bribery was claimed to be a contempt of the house, and a high-handed breach of privilege, for which the aggressor was liable to imprisonment during their pleasure. On the other, it was contended, that the power of punishing for contempt extended only to members of the house, and to offenses committed by others within its walls. On the question, whether Colonel Anderson's case was an offense punishable by the house, the yeas were one hundred and nineteen, nays forty-seven. He was then taken into custody by the sergeant at arms, by virtue of a warrant from the speaker, by order of the house; brought to the bar, reprimanded, and discharged. He afterwards brought an action of false imprisonment, against the sergeant at arms, for executing the speaker's warrant, which came to final trial before the supreme court, at the February term, 1821, in which the constitutional powers of the house in relation to punishing for contempts, underwent a thorough judicial investigation.

On the part of Colonel Anderson, it was contended, that the house of representatives had no power to order the warrant in question; that the same was void on the face of it, not appearing to be supported by oath or affirmation, as required by the fourth article in the amendments to the constitution; that the power of punishing for contempts was expressly given by the constitution to the house only in relation to its members, and extended only to expulsion; that by the second section of the third article it is provided that the trial of all crimes, except in cases of impeachment, should be by jury, which it was conceded the house had no power to order; that it was not necessarily incident to the existence of one branch of the legislature, and the grant of the power, as it respected members of the house, was an implied negation of it in all other cases.

*Opinion of the court in Anderson's case.* Judge Johnson delivered the opinion of the court in favor of the defendant, stating that the power of punishing for contempt was necessary to the due exercise of the functions of the house of representatives; that it extended to all persons and

places within the United States, and was incident to each branch of the legislative body; that the power was not dependent upon any specific provisions of constitutional, statute, or common law, but was bottomed upon the great principles of self-preservation, the first duty of corporations, legislative bodies, and courts, as well as of natural persons. The warrant, the judge observed, appeared to be regularly issued by authority of the house, and it was not necessary that the evidence on which the house acted should appear on the face of the warrant.\* This was analogous to, and in the opinion of the judge fully supported by, a decision of the British house of lords, in a case between Sir Francis Burdett and the speaker of the house of commons.

*Beaumarchais claim.* The Beaumarchais demand, as well from its nature as its magnitude, occupied much of the attention of the committee of claims. It had been repeatedly pressed upon the government, both during the life-time of the original claimant, and by his heirs since his decease. Scarcely any suitor before congress ever exceeded, in cunning and perseverance, this Frenchman, in prosecuting a claim, which, upon every investigation, proved to be wholly unfounded.

At the commencement of the American revolution, the French government ardently wished to weaken the power of her ancient rival, by a separation of the colonies from the parent state; but not at that time prepared for an open rupture, determined to afford the Americans all the aid in their power, in a secret and disguised form. The principal difficulty was to do it in such a covert manner as to elude the vigilance of Lord Stormont, the British minister at the French court. At length this expedient was hit upon. Beaumarchais, a merchant of some note, was selected as a confidential agent of the French ministry, through whom the supplies were to be furnished, apparently in the ordinary course of mercantile business. The gratuity agreed upon between Count Vergennes and the American agents, was a million of livres tournois, equal to 185,000 dollars. This present was to be accompanied with facilities in purchasing munitions of war to any extent the Americans wished, and to be paid for in their productions. The million of livres was furnished Beaumarchais from the king's treasury, and by him laid out in the purchase of munitions

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\* 8th of Wheaton's Reports, p. 204.

of war, and shipped to America by the way of St. Domingo. For this purpose he established a mercantile house, under the fictitious name of Rodrigue Hortales & Co. The course of their business was to purchase warlike stores, ship them to the West Indies, where one of the firm resided, who saw them shipped to the United States, and received in return partial payments in tobacco and other American productions. The munitions of war were principally furnished from the king's arsenal. Lord Stormont, having discovered the object and ultimate destination of one of these shipments, demanded of the French government that it should be stopped, and the American agent, Silas Dean, arrested, and delivered to the British as a rebel. The French government affected to comply, but not in a manner to defeat the voyage. The business was carried to a great extent, and much to the aid of America. The French enjoined the most inviolable secrecy on the American agents. None, either in France or America, knew the real nature of the transaction, but those immediately concerned. Beaumarchais and Dean, apprehending that neither government would be willing to disclose the secret history of the business, determined to avail themselves of it to put into their own pockets the million of livres; and the American government were charged by Hortales & Co. with the whole amount of supplies furnished, without being credited this gratuity. The balance resulting from the want of this credit constituted the Beaumarchais claim.

*Mismanagement of the bank.* The bank of the United States being founded upon principles favorable to its successful operation, with a specie capital of seven millions, and twenty-eight millions of public stock, bearing interest, and convertible into specie on any emergency, and being the depository of an annual revenue of twenty-five millions, its success, under any prudent management, was beyond a doubt. But the course taken under its first directors, was the reverse of any correct principles upon which moneyed institutions of that character ought to be conducted. The original stockholders consisted of two descriptions of character: real capitalists, who wished to vest their surplus funds in the bank; and speculators without capital, and without the means of paying the requisite instalments, calculating to make fortunes by the sale of their stock. The latter were the most numerous, and gained the direction of its incipient operations.

To prevent its management from being controlled by a few individuals, the charter had provided that no stockholder should have more than thirty votes, while the proprietor of a single share was entitled to one. Speculators contrived to evade this salutary provision, by subscribing single shares in the name of their friends, and procuring from them powers of attorney to vote at the stockholders' meetings. This trade became so common, that the established price for lending a person's name for this purpose, was twelve and a half cents. By this artifice, some individual stockholders gave more than a thousand votes. The cities of Philadelphia and Baltimore obtained a controlling influence; and a majority of the directors first chosen, were favorable to the views of the speculators. Some of the government directors were also of the same character. This led to a series of measures calculated to give a fictitious value to the stock, or bank scrip, as it was then termed, favorable to speculation, but detrimental to the real capitalist, who contemplated a permanent investment in the stock of the bank.

One of their first measures was to encourage the sale of stock in the European markets, by engaging to pay the dividends on the stock owned in Europe, in London. This would be attended with the expense of an agency, and the loss of from six to fifteen per cent., according to the course of exchange between Philadelphia and London. It had, however, the designed effect, of raising the stock in that market. The next step was, to facilitate the payment of the last two instalments, so as that purchasers without funds might embark in the speculation. For this purpose, it was agreed to discount the notes of stockholders for the payment of their instalments upon the pledge of their stock, without any other security, first at par, and afterwards for twenty-five per cent. more than the nominal amount; requiring, however, an indorser for the excess. These stock notes, as they were termed, were renewed indefinitely, at the pleasure of the stockholders. A fictitious capital was thus created, on which not the least reliance could be placed for banking operations. But it brought a host of greedy speculators into the market. Stock-jobbing to a great extent, was the necessary result. Shares were bought without the advance of a cent. An adventurer would engage a certain number of shares, apply to the directors for a loan on the pledge of the stock engaged, and by what was called a simultaneous operation, the stock was transferred to him,

pledged to the bank, and the discount made, with the avails of which he paid for his stock: a rise in the market would enable him to sell his stock at an advance, pocket the difference, and commence new operations. The principal loans were made on this pledged stock to brokers, and bank directors, who were constantly on 'change, managing the business on an extensive scale. This course of proceeding arrived at its crisis in September, 1817, when an explosion took place, and bank stock suddenly fell from 156 to 90 dollars a share, dissipating, at once imaginary fortunes, and altering the condition of many persons from bank stockholders to bankrupts.

*Baltimore speculations.* Baltimore was the principal scene of these operations; the management of that branch had fallen almost exclusively into the hands of persons without capital, and without principle. Two or three houses in which some of the directors had an interest, drew from the bank a million and a half; and the defalcations in the Baltimore branch alone, amounted to seventeen hundred thousand dollars, a sum about equal to the aggregate amount of losses at the parent bank, and all the other branches.

*Means adopted to save the credit of the bank.* The specie payment of the first instalment, amounting to little more than two millions, was all the real capital on which the bank could safely transact business during the first year. Its operations, however, were extended much beyond its limited means, to the imminent hazard of its credit. Such measures led to desperate expedients to obtain temporary relief. A special agent was dispatched to England, with a salary of twenty thousand dollars, to obtain a specie loan of seven millions; the premium and expenses of which amounted to something more than half a million of dollars. The principal part was obtained from Baring & Co., brokers in London, and reimbursable on the 1st of January, 1819. Two millions of United States stock was sent to England, and sold for specie. The secretary of the treasury, having the privilege of redeeming this stock at pleasure, claimed the right, and the bank were obliged to purchase an equal amount, at a loss of twenty thousand dollars.

The principal motive for the establishment of the bank, and the great public advantage expected from it, was, that it would afford a currency of a uniform par value, throughout the nation. The circulating medium in the United States, is estimated at seventy millions; four-fifths of which,

at the time the bank went into operation, consisted of the bills of the banks established under state authorities, not convertible into specie at the pleasure of the holder, depreciated from five to twenty-five per cent, and of little value except in the immediate neighborhood of the institutions from which they issued. With the capital which the government bank would have had, if the whole had been paid in, agreeable to the charter, with its public and private deposits, and with one or more branches in every state in the union, it might have entirely superseded this spurious paper, given its own bills a general circulation, and furnished a uniform medium, of par value, throughout the United States. This was expected from the institution, both for its own benefit, and for the public interest. For this purpose, it was requisite that the bills issuing from any particular branch, and payable, according to their tenor, at that branch only, should be received and paid indiscriminately, at the parent bank, and all its branches. This course was adopted at the commencement of the institution, and continued until July, 1818, when, from the mismanagement of its concerns, and the great influx of bills from the south and west, upon the parent bank and its branches, in the middle and northern sections of the sea-board, the bank was unable to continue the operation, and the bills were afterwards paid only at the branches from which they issued.\*

*Change of directors.* Towards the close of the year 1818, the affairs of the bank assumed a most unfavorable and alarming aspect. The foreign loan was about to fall due, and their bills, in great numbers, were returning upon them, without adequate means for their redemption. A radical change in its administration, and in the course of its measures, became necessary, to prevent an immediate bankruptcy. The president, and several of the directors, resigned, and in January, 1819, a general change in the direction was effected. Langdon Cheves, of South Carolina, was placed at the head of the government list, and appointed president. This produced a correspondent change of measures. The stock, ceasing to be an object of speculation, gradually found its way into the hands of real capitalists, and rose to a hundred and twenty dollars. The new direction, after they became acquainted with the state of the affairs of the institution, published a minute exposé of its

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\* Report of a committee of congress, January 16th, 1819.

circumstances, assuring the stockholders that the bank was solvent, but, from its deranged state, no dividends were to be expected, prior to January, 1821.

Mr. Cheves arrived at Philadelphia, and took his seat at the head of the board, in March, 1819, and from that time, until his resignation, in January, 1823, made the interest of the bank the object of his unwearied attention. On examination, he found its condition even worse than had been contemplated; liable to specie demands, to a greater amount than all the cash in its vaults; a great portion of its specie capital never paid in, and not then collectable; a loss of more than three millions, in bad debts; the parent bank, and its offices on the northern sea-board, drained of their funds, by drafts from those of the south and west; and the character of the institution fast declining. The prominent measures adopted under the direction of Mr. Cheves, and which ultimately saved the bank, were,

1st. The immediate borrowing of two millions and an half of specie, to meet the specie demands:

2d. A general and gradual curtailment of discounts:

3d. A direction to the officers at the south and west, to stop their drafts on the parent bank, and its branches at the north; and to remit, as fast as was in their power, the balances due from them: And

4th. A vigorous collection of all its dishonored paper, and prosecution of all defaulters.

A system of measures founded on these principles, saved the institution from bankruptcy, and placed it on a respectable footing. Mr. Cheves, at the close of his administration, gave a particular detail of the state of the bank, at the commencement, and during the continuance of his presidency, which necessarily implicated the former managers, and subjected him to their reproaches. On the resignation of Mr. Cheves, Mr. Nicholas Biddle, of Philadelphia, was appointed his successor, who pursued the same general system of measures, sustained the reputation of the bank, and conducted its operations in such manner as to answer all the valuable purposes of its institution.

*Federal judiciary.* In no branch of the federal government were greater difficulties experienced, than in the arrangement of its judiciary system. Two distinct independent tribunals, emanating from different sources, accountable to different authorities, each with their respective officers, to execute their judgments, existing in the same society, and having jurisdiction over the same causes and persons, was an



anomaly in government. It was obvious that their decisions must many times interfere, and occasion unhappy collisions. An independent national judiciary was deemed an essential part of the federal system. Reliance could not be placed on state authorities, to expound the constitution and laws of the United States, and give them effect over the citizens. A national judiciary was therefore created by the constitution, and vested with extensive powers. Its nature and operation, though foreseen by many of the framers of the constitution, were not fully understood by the people who adopted it. The doctrine of state sovereignty was, at that period, a favorite topic; and it was then little apprehended, that the acts of the state legislatures, and the decisions of their highest courts, were to be subject to the unlimited control of a federal judiciary. This power, however, the supreme court consider themselves as possessing, and have exercised it with a fearless independence. By a series of decisions, which have been reluctantly submitted to, it has become a settled principle in the American system, that the supreme court have power to declare the acts of the state legislatures unconstitutional and void; and to review the decisions of the highest state courts, whenever the constitution or laws of the United States, or treaties made under their authority, come in question, and to set them aside, whenever, in their opinion, they contravene them.

*Liability of states.* At an early period of the government, in a case between the state of Georgia, and one of its citizens, the supreme court decided, that the several states, in their corporate capacities, were liable to be sued before the federal tribunals, and answerable in the same manner, and subject to the same process, as individuals, or private corporations. This impugned those favorite maxims, the relics of the monarchical system, that the king, or sovereign power, could do no wrong, and was not amenable to any court; and that the only mode in which a subject was to seek redress from his sovereign, was by humble petition. The excitement occasioned by this decision, produced an amendment of the constitution, excluding the federal judiciary from taking cognizance of causes of this description.

The correctness of the principle, that the claims which a citizen might have upon the justice of his government, should not be the subject of legal investigation, was, indeed, controverted with great force. A judicial tribunal, consisting of one or a few individuals of eminent talents, accus-

tomed to search out the truth of facts, from conflicting testimony, and governed by settled rules, framed with great care, in the administration of justice, it was contended, was much more likely to do right, between a citizen and the public, than a popular assembly, subject to the prejudices and partialities which make their way into those bodies. The government would have nothing to fear from a tribunal of their own creation, and the mode of carrying their decisions into effect, when in favor of the claimant, might still be left to legislative regulation. But the idea that it would be derogatory to the dignity of the state, to submit the claims of its citizens to the decision of courts of law, had become too firmly fixed, to be given up; and it became a settled principle in the American, as it ever had been in the European system, that their only mode of redress, must be by petition to the sovereign power.

*Martin vs. lessee of Hunter.* In the case of Martin, heir at law of Fairfax, against the lessee of Hunter, ultimately decided in the supreme court of the United States, at their February term, 1816, an interesting controversy arose, between that court and the supreme court of Virginia, regarding their respective powers. The constitution had provided, that "the judicial power should extend to all cases in law or equity, arising under the constitution and laws of the United States; and that in such cases they should have appellate jurisdiction, both as to law and fact." The act of the first congress, organizing the judiciary, provided for the removal of a case from the highest state courts, into the supreme court of the United States, where the decision of the case depended upon a question arising under the constitution or laws of the United States, and the judgment of the state court was against their operation. The cause in question was removed, under this law, from the high court of appeals, in Virginia, into the supreme court of the United States, where the judgment of the state court was reversed, and the cause remanded, with orders to proceed to final judgment, according to the opinion of the supreme court. On the further hearing of the cause, before the state court, they decided that the law of the United States, conferring on the supreme court appellate jurisdiction over the high court of appeals in Virginia, was unconstitutional; that the proceedings of the supreme court, where such appeal was taken, were void; and refused to carry their decision into effect, on the ground that they had no jurisdiction over the decisions of the state courts. The

case, on this decision, was again brought before the supreme court of the United States, where they again decided that the law was constitutional, that their appellate jurisdiction did extend to the revision of the judgments of the state courts, and that the high court of appeals in Virginia had no power to declare the laws of the United States, and the decisions of the supreme court, void.

*Russian consul's case.* In the supreme court of Pennsylvania, Nicholas Kosloff, the Russian consul general, was indicted by the grand jury for the county of Philadelphia, for a rape. On a motion to dismiss the process, two causes were assigned: one, that the privilege of immunity from criminal prosecutions, is given to consuls, by the law of nations; the other, that exclusive jurisdiction, in all cases affecting consuls, is vested in the national judiciary. The law of nations, it was admitted, exempted ambassadors, and other public ministers, from all liability to prosecutions, in the courts of the nation to which they are sent, on the ground that they are the representatives of their sovereign, who has never consented that they should be subject to the laws of a foreign state; that it would prevent the free and faithful discharge of the important business with which they are intrusted; that the only remedy for the misconduct of a foreign minister, is an application to his sovereign, for his recall; but a consul, it was claimed and decided by the court, was a mere commercial agent; not the representative of his sovereign, nor clothed with the immunities of an ambassador. Governments often select their consuls from some of their citizens, residing at the places where they are to exercise their functions, and sometimes from other inhabitants of those places. On the other question, the court decided, that the constitution vested in the national judiciary exclusive jurisdiction, in all cases affecting consuls, in express terms, and discharged the defendant. Mr. Dashkoff, the Russian minister, affected to consider even the arrest of the consul as a breach of privilege, and remonstrated against it. The president dispatched Mr. Coles, his private secretary, to Petersburg, with a full explanation of the affair to the emperor; who censured the conduct of his ambassador and consul, and expressed himself fully satisfied with the explanation of the American government.

*Enlistment of minors.* The laws of the United States relating to the recruiting service previous to the year 1814, prohibited the enlistment of minors, without the consent in writing of their parents, guardians, or masters. In the last

year of the war, the public exigencies were such, that congress deemed it necessary to repeal that paragraph of the law, and authorize the enlistment of minors, without the consent of their parents or guardians. This provision was by some of the states, then opposed to the war, and inclined to throw obstacles in the way of its prosecution, considered as inconsistent with the natural obligations and duties subsisting between parent and child, and in the case of apprentices as authorizing a violation of the contracts between them and their masters; and was declared to be unconstitutional and void, and measures taken to resist its execution. The laws respecting the naval service authorized the employment of boys, and made no provision requiring the consent of their parents or masters. In the month of May, 1815, Robert Treadwell, a minor, enlisted into the naval service, without the consent of his father. Having deserted soon afterwards, he was apprehended, brought before a court martial, and ordered to serve in the navy for two years. In June, 1816, he was brought before the circuit court for the district of Massachusetts, Judge Story presiding, by a habeas corpus, at the instance of his father, claiming his discharge on the ground of minority. The court, in an elaborate and able argument, decided, that the common law right of a parent to the services and control of his child, was subject to municipal regulation. That the supreme power claimed and exercised the right of enrolling minors in the militia, and compelling them to serve for such period as the public exigencies required, against the consent both of the minor and his parent; this right had never been questioned, though it was a much higher and more arbitrary exercise of military authority, than the acceptance of the voluntary service of a minor for a limited period. That the laws on the subject of manning the navy, provided for the employment of a certain proportion of boys, without requiring the consent of their parents; that they usually composed an important part of the crews of ships, and that good seamen could not be obtained without an early and long acquaintance with the service.

Without any express constitutional provision, the judge observed, whenever an end was required, it necessarily implied a grant of the usual and proper means for its attainment; and that clause in the constitution which authorized congress to provide and maintain a navy, necessarily implied the power of manning it from any portion of the citizens, as well minors as adults. In every nation, a portion of the male population under the age of twenty-one, con-

stituted an important part of their military and naval force. No adequate reason existed for the exemption claimed. The court therefore ordered the prisoner to be remanded to his commanding officer. The same principles applied to the enlistment of minors into the army as into the navy. The opinion of the circuit court was acquiesced in, and the power of congress to authorize the enlistment of minors into the army and navy has not since been controverted.

*M'Culloch vs. Maryland.* Soon after the establishment of a branch of the United States bank at Baltimore, the state of Maryland passed a law imposing a tax of twelve thousand dollars on that office. This measure became the subject of a suit between the state and the bank, which under the name of *M'Culloch* against the state of Maryland, came to final trial before the supreme court of the United States, at their February term, 1819. The counsel on the part of the state made two points:

1. That the act of congress incorporating the bank, was not within their constitutional powers;
2. That be that question as it may, the state has the power of taxing the institution.

Few questions had arisen since the commencement of the federal government, of more importance and difficulty. A direct collision between an act of congress, and that of a state legislature, presented itself. The chief justice, in delivering the opinion of the court, remarks: "In the case now to be determined, the defendant, a sovereign state, denies the obligation of a law enacted by the legislature of the union; and the plaintiff, the bank, contests the validity of an act of the legislature of that state. The constitution of the country, in its most essential and vital parts, is to be considered; the conflicting powers of the government of the union and its members, as marked by that constitution, are to be discussed; and an opinion given which may essentially influence the great operations of the government. No tribunal can approach such a question without a deep sense of its importance, and of the awful responsibility involved in its decision. But it must be decided peacefully, or remain a ceaseless subject of hostile legislation, perhaps of hostility of a still more serious nature. If it is to be decided at all, the constitution has devolved this duty on the supreme court of the United States."

On the first question, the arguments which had been adduced in the hall of congress on the granting of the first and second charter, and on various other occasions, were

reiterated with great force. The other question was new. It had never been discussed in the United States, and the governments of Europe had no features which presented a parallel case. The power of levying and collecting taxes was an important attribute of sovereignty, and could not be controlled without destroying an essential principle of state government. The constitution had not interfered with the state sovereignties except in the powers delegated to congress, either expressly or by necessary implication. That of taxation for all internal purposes remained with the states: on general principles, its objects were all the property within the state: the amount of those taxes, and their apportionment, is peculiarly and exclusively within the province of state legislation. Four fifths of the capital of the bank was the property of individuals. Institutions of the same character, deriving their powers from the state legislatures, have ever been considered as legitimate subjects of taxation. The business of banking, judiciously conducted, was safe and lucrative. It enjoyed the protection of law, and ought to contribute its due proportion to the public expenditure. The circumstance, that the United States had associated themselves with this banking company, and owned one fifth of the capital, it was contended, conferred on them no special privileges or exemptions: neither the constitution, nor the charter of the bank, gave them any such privilege. Granting them such an exemption, would enable them to do business upon more favorable terms to bank customers, engross the whole trade, and deprive the state of a legitimate and profitable source of revenue.

After an elaborate argument of several days, the chief justice delivered the unanimous opinion of the court, in favor of the exemption, claimed by the bank. On the first point, the court observed, that the subject having been so often discussed, and always decided in favor of the constitutionality of the measure, the question must now be considered as at rest; but admitting it to be new, they had no hesitation in saying that the power of incorporating a bank was a necessary incident to the powers expressly delegated to congress, and fairly within the provisions of the constitution.

On the question, whether the state authorities had power to levy a tax on such an institution, the court observed, that such a power, if it existed, must necessarily be limited only by the discretion of the legislature possessing it: that such a power might be carried to the extent of a prohibition, and destroy the subject on which it was to operate; that a power

to create, and a power to destroy the same subject, vested in different bodies, were contradictory and inconsistent, and could not co-exist; and that as the constitution of the United States, and the acts of congress made in pursuance thereof, were the supreme law of the land, the act of the legislature of Maryland levying the tax, and all proceedings under it, were unconstitutional and void. In conclusion, the court remark, that this opinion does not deprive the state of any resources they originally possessed. It does not extend to a tax paid on the real property of the bank, in common with other property within the state, nor to a tax imposed on the interest which the citizens of Maryland might hold in the institution in common, with other property of the same description throughout the state. But this is a tax on the operations of the bank, and consequently on an instrument employed by the government of the union, to carry its powers into execution. Such a tax is unconstitutional.

The arguments of the judges derived much force, and were strikingly illustrated by the proceedings of the legislature of Ohio on the same subject, while this question was pending in the supreme court. The United States bank had established two branches in that state, one at Chillicothe, and the other at Cincinnati. The legislature, for the avowed purpose of destroying these institutions, had levied a tax of fifty thousand dollars upon each of them. The whole sum was levied by the sheriff, and taken from the vaults of the branch, at Chillicothe, and deposited in the state treasury. Applications, in chancery, for an injunction against these proceedings, and for a restitution of the property, and suits in trespass against the actors, were instituted in the circuit court for that district, and prevailed.

These decisions excited considerable attention and alarm in the state governments. Those states, the acts of whose legislatures were thus declared void, apprehended that a principle was established, destructive of state sovereignty. Few acts could be passed, or scarcely any taxes laid but what would have more or less bearing upon the concerns of the general government, and for that reason might be declared unconstitutional.

*Invalidity of state bankrupt laws.* Apprehensions of this nature were increased by another decision, at the same term, vacating the bankrupt laws of the state of New York. By an act of the legislature of that state, passed in 1811, a debtor, with a certain portion of his creditors, might, by application to the state courts, and assigning his property for

the benefit of his creditors, under the direction of the court, according to the provisions of the act, obtain a discharge of his debts. In a suit of *Sturges* against *Crowningshield*, on a contract made in the state of New York, antecedent to the passing of the act, it was decided that a debtor, who had conformed to the provisions of this act, was not thereby discharged from his debts. Two questions were made in the case; one, that the constitution having given congress the power of establishing uniform laws on the subject of bankruptcies, throughout the United States, by implication, divested the state governments of the power of legislating on the same subject. The other, that the law was unconstitutional, in as much as it impaired the obligation of contracts. On the first, the court decided, that in as much as congress had not exercised that power by any law in force at the time of passing the act of 1811, the states were not then divested of the power of making laws on the subject of bankruptcies. On the second, that the act of 1811 was a law, impairing the obligation of contracts within the prohibition of the constitution, on the ground that any law, discharging the debtor from his contract without a performance, was impairing its obligations. The chief justice, aware that this decision might be construed to impugn the principles of the statutes of limitation, observed, that such was not the opinion of the court; but that these statutes, being grounded upon the principle that the length of time specified in them was presumptive evidence of the fulfilment of the contract, were valid. The court also took a distinction between this statute and an insolvent act, which went merely to exonerate the person of the debtor from imprisonment, admitting the latter to be valid, because it did not discharge the contract, but merely regulated the mode of its enforcement.

In consequence of this decision, many suits were brought in the state of New York, against debtors who had availed themselves of the provisions of the act of 1811. - In the supreme court of that state, the opinion was admitted to be decisive, of all cases which came precisely within its principle; but a distinction was taken between contracts made before, and those made after the passing of the act. The latter, Chief Justice Spencer remarked, were made with a full knowledge of the existence of the law, and with reference to it, and were consequently subject to its provisions. This opinion was over-ruled by the supreme court of the United States, and the law declared invalid, in relation to contracts made both before and after its enactment.



*Case of Cohens vs. Virginia.* The peculiar organization of the district of Columbia, gave rise to an interesting constitutional question, decided by the supreme court of the United States, in 1821. In order to secure to the several branches of the federal government perfect freedom and safety in the exercise of their respective functions, the framers of the American constitution had provided that congress should have power to exercise exclusive legislation over ten miles square of territory, which should thereafter become the permanent seat of government. Such district having been established, the national legislature, for all the purposes of municipal regulation, exercised the same powers over it, as the state governments do over their respective citizens. One mode, in which it was contemplated that this constitutional provision might be carried into effect, was by establishing a district legislature, to be chosen and supported by its citizens, whose acts should be subject to be revised by the national government. This would give congress and the executive all the requisite security in the exercise of their powers; and be at the same time analogous to the general system of state governments. Another was that congress should exercise direct municipal legislation over the territory. When the district was first designated, it embraced only two villages of any considerable magnitude, and not sufficiently numerous for the convenient exercise of internal legislation; Congress were therefore induced to adopt the latter mode; and the district of Columbia, since the year 1800, has been governed by a legislature, none of whom, have a permanent residence in the district, in the choice of whom, its citizens have no voice, and over whose deliberations they have no control. Congress have hitherto exercised this power with such paternal solicitude for their favorite object, that the citizens of the district have readily acquiesced in their disfranchisement. This anomaly in the American system produced a singular collision, between congress exercising the functions of a municipal legislature for the district, and the government of Virginia. The former had authorized the city of Washington to set up, and draw a lottery within its limits, for the purpose of raising money to be appropriated to some improvements for the convenience of its citizens; the latter had passed a law prohibiting under a penalty the sale of any lottery tickets, other than those authorized by them, within their jurisdiction.

The house of P. & M. Cohens, in Norfolk, having opened a lottery office, and sold tickets in the Washington lottery, were prosecuted in the borough court of Norfolk, by a suit

in behalf of the state, for the penalty. The defendants rested their defense on the ground that this was a national lottery, established for public purposes by the legislature of the union, whose acts were not subject to be controlled or impeded by the laws of any state. They were supported in this defense by the opinion of five eminent jurists, in different parts of the United States.\* These gentlemen denominate the city of Washington a national city, and consider the improvements made there for the convenience of its citizens, as national objects, in which the people of the United States have a peculiar interest; without defining what that peculiar interest is, or what exclusive privileges are to be enjoyed by citizens of a national city, they proceed to consider the act of congress authorizing the drawing of the lottery, not as the act of the legislature, acting for a particular district, but as an act of the national authority for public purposes; and as such, paramount to the acts of any state legislatures. The sale of lottery tickets being essential to its success, they consider any law prohibiting or impeding their sale, in any state, void, as defeating the object of the national legislature. The state of Virginia claimed, that this was a mere municipal regulation for the district of Columbia, in which the citizens of the United States had no special interest, that although the act was passed by congress, it was in their capacity, of a local legislature, and their acts as such, were not of paramount authority. The borough court were of this opinion, and decided in favor of the state. The defendants brought their case by writ of error, before the supreme court of the United States. The first question was in what manner the state of Virginia should be introduced as a party defendant to the process. This was done after much deliberation, by a citation from the chief justice to the governor of the state, and served by the marshal of the district, notifying him of the suit. The state of Virginia, which had ever watched with peculiar solicitude any measure of the general government, which might be construed to infringe on state sovereignty, considered this as a direct attack upon her rights. A committee of the house of delegates, to whom was referred the message of the governor, giving information of this proceeding, denied the right of the supreme court to interfere with the decisions of the state tribunals. Each state they

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\* Pinkney, of Maryland; Ogden, Emmet, and Wells, of New York; and Jones, of Columbia.

consider as an independent sovereignty to every intent, except where a portion of its authority is delegated to the federal government, and this attempt to draw a state as a defendant, into the courts of the United States, as an assumption of power not warranted by the constitution, and destructive of the independence of the states. The question was elaborately argued before the supreme court, on a motion to dismiss the cause for the want of jurisdiction. The counsel for the state contended that the appellate jurisdiction, given by the constitution to the supreme court, according to the obvious meaning of the term, was the removal of a cause from an inferior to a superior court, established by the same authority. That the state courts in cases cognizable before them were supreme and independent, no power being given by the constitution to the federal judiciary, to arrest a cause originally cognizable before the state courts, in its progress, or revise their proceedings after its termination. They objected to the court's assuming jurisdiction by implication, merely because it might be convenient, or beneficial to exercise it.

A second point made, was, that a state was not liable to be made a defendant in a suit, by one of its citizens. Such power, it was contended, was not among the judicial powers given by the constitution. A third objection was, that the law authorizing the drawing of a lottery, was a mere municipal regulation for the district of Columbia, and not a public act of general concern, to which the judiciary power of the United States extended, in such manner as to control the decisions of the state courts.

The sum in controversy on this occasion, was of very little moment. The principles which it involved, were of vital importance. If the acts of congress were subject to be impeded or counteracted by twenty-four different legislatures, and judiciaries, without control, the general government might as well at once cease its operations. On the other hand, if the acts of the state legislatures, and their judiciaries, were subject to be annulled by the supreme court, they could be considered in no respect as independent sovereignties.

*Opinion of the court.* In delivering their opinion, the court remark, that two distinct and independent legislative and judicial authorities, acting on the same subject, the one having no control over the other, is a palpable absurdity in a political system. Questions arising between the general and state governments will present themselves,

and for ever exist, unless there be some constitutional tribunal established, to decide them. They consider themselves as possessed of this power; and if possessed of it at all, they remark, it must necessarily extend to a review of the decisions of the state courts, whenever the constitution or laws of the United States come in question. This, they consider, can only be done by a removal of the cause, after a decision in the state courts, into the supreme court of the United States. The process by which this is effected, is a mere continuation of the original suit, and does not impugn the principle of that amendment of the constitution, which protects states from being sued, in those cases where they were originally defendants. The court therefore overruled the motion for the dismissal of the cause. On the merits, they decided that a grant to the city of Washington, of the privilege of drawing a lottery within the district, for local purposes, did not necessarily imply a right to sell tickets, where, by the laws of a particular state, they were prohibited; that there was nothing in the laws of Virginia upon the subject, which in terms, or by necessary implication, contravened the constitution or laws of the United States; they therefore affirmed the judgment of the borough court, against the defendants.

*State magistrates acting under laws of the U. S.* Another important judicial question arose, in respect to the agency which a magistrate, appointed under the authority of a state, could legally exercise, in relation to executing the laws of the United States. This question was differently decided by the courts in different states; but was never finally determined in the supreme court. The first congress sitting under the constitution had provided, that a state magistrate, upon oath being made to him that an offense against the laws of the United States had been committed, might issue a warrant to apprehend the offender, and hold him to trial before the United States courts. By virtue of this act, a justice of the peace in the state of Maryland, for the county of Baltimore, had issued a warrant to apprehend a person, charged with the crime of piracy, and to hold him for trial before the circuit court. On application to the state tribunals he was discharged, on the ground that congress could confer no judicial powers on any officer, acting under state authority, and that the law of the United States by which such power was attempted to be conveyed, was unconstitutional and void. Another reason given by the court was, that the legislature of Maryland had prohibi-

bited their officers from accepting any office of profit, or trust, under the United States, and that this case came within that prohibition.

Another act of the same congress had provided, that any seaman duly engaged in the merchant service, according to its regulations, and deserting from his vessel, might be arrested and held in confinement, until the vessel was ready to leave the port, and be then delivered on board. Three seamen having deserted from a vessel in James river, in violation of their contract, were, according to the provisions of this act, arrested and held in custody by a warrant from a justice of the peace for Henrico county, and the question on the legality of the proceeding, was brought before the highest court in the state of Virginia, for decision. The view taken of the subject by that court was, that congress might designate such persons as they thought proper, to aid in carrying into effect the laws of the United States, that such designation might be made as well by referring to an office which they held under a state authority, as in any other manner; and if the persons so designated, were willing to perform the service, their acts would be valid; that it was, however, no part of their official duty, as state officers, and they were not amenable to the state government for their conduct in that respect. In accordance with this principle, state magistrates and courts have been designated by several acts of congress, to authenticate various documents, and take evidence particularly in applications for pensions, and the principles of the Virginia judiciary on this subject have been generally adopted.

*Steamboat case.* The successful application of steam to the purposes of navigation, was first accomplished, after much labor and expense, by two citizens of New York, Chancellor Livingston, and Robert Fulton, who obtained a charter from the legislature of that state, giving to them the exclusive privilege of navigating its waters by steam, for a term of years. Great improvements were soon afterwards made on the original plan; boats could with difficulty, at first, be propelled only about four miles an hour; their velocity was afterwards increased from eight to twelve; and passages were effected with certainty and dispatch, against wind, tide, and current. So great an improvement in coasting, and inland navigation, soon came into general use. The privilege claimed by the patentees, was found to be extremely inconvenient and embarrassing to the citizens of other states, none of whose steamboats could approach the

great emporium of American commerce, without being liable to a prosecution; while those of the patentees could navigate any of the waters of the United States, without interruption. The legislature of one of the adjacent states attempted to remedy this difficulty, and bring the patentees to a compromise, by passing a law prohibiting the Livingston and Fulton boats from entering its waters. This measure failed of its object, and was found to create much public inconvenience. Mr. Gibbons, a wealthy citizen of Georgia, determined to try the validity of the patent, before the highest national tribunal. In defiance of the claims of the patentees, he established a line of steam packets between New York and Elizabethtown, on the route to Philadelphia. An injunction against their operations was obtained from the chancellor, and the question on its validity, carried up before the supreme court of errors, consisting of the chancellor, judges of the supreme court, and senate of the state of New York. This tribunal decided in favor of the patentees; Mr. Gibbons brought the question, by writ of error, before the supreme court of the United States, where it was ultimately decided against the validity of the patent, by the unanimous opinion of the court. The ground on which they decided the act of the state of New York to be void, was, that it was inconsistent with that article of constitution, which gives congress the power to regulate the commerce with foreign nations, and among the several states. This, they consider, as embracing navigation; and as being necessarily exclusive, and not to be exercised by two independent legislatures, the one allowing, and the other prohibiting the same acts. That by the constitution and laws of the United States, their citizens, as also the subjects of foreign powers, conforming to those laws, have right to navigate the waters of the United States, in such manner, and to make use of such measures to propel their vessels, as they think proper; and that it was not competent for any state to close its ports against such vessels, in whatever manner they might be navigated. After a long and elaborate opinion, in which the various points in the case were thoroughly examined, the chief justice apologizes for spending so much time in attempting to elucidate propositions so exceedingly plain, as those by which the opinion of the court was supported, from a consideration that a contrary opinion had been held by the highest legislative and judicial authorities of the state of New York.

Several other cases have occurred, in which the legislative and judicial acts of the highest state authorities have been declared void by the supreme court of the United States. They also claim the power of exercising the same judicial authority over the acts of congress, but no instance has occurred in which it has been called into operation. The high character which that court has ever sustained for talents and integrity, and the able manner in which they have treated the subject, when called upon to pronounce the acts of state sovereignties void, have supported them in the view of the American people, when exercising this high prerogative.

## CHAPTER VIII.

Negotiations with Spain—Boundaries of Louisiana—Cession of the Floridas—Fraudulent grant of the crown lands in the Floridas vacated—Treaty concluded—Mr. Forsyth appointed special envoy to obtain its ratification by the king of Spain—His correspondence with the Spanish minister—Ratification refused—Don Vives sent to the United States to explain the reasons of the refusal—Proceeds by the way of Paris and London to consult the French and British ministers upon the subject—Correspondence between Vives and the secretary of state—Communication from the Russian, British, and French ministers at Washington, on the subject of Spain—Revolution in the Spanish government—Cortes direct the treaty to be ratified—Importance of the Floridas to the United States—President's communications to congress, and their proceedings on the subject—Extension of the frontier posts to the northwest—At St. Peters—At the Mandan villages—Expedition to the Yellow-stone river—Application by a German adventurer, to be employed in the office of state—Mr. Adams' reply—Second session of the 15th Congress—Message—Subjects of deliberation—Matthew Lyons' petition—Report of the secretary at war on the subject of roads and canals—Resolution of the senate on the subject of employing the military in constructing them—End of the session.

*Treaty with Spain.* The diplomatic controversy which had been carried on, with little interruption, between the American and Spanish governments for nearly a quarter of a century, terminated in February, 1819, in a treaty negotiated by Mr. Adams, the American secretary of state, with Don Onís, the Spanish minister at Washington, containing a cession of the Floridas to the United States. The negotiation, besides a great variety of minor questions, embraced two subjects of primary importance; one, the limits of Louisiana; and the other, indemnity for commercial spoliation. The claims of the European nations who took possession of portions of the American continent soon after its discovery, almost universally interfered with each other. The Spaniards at first claimed dominion over the whole, in consequence of the discovery of Columbus. After this claim was contested, and partially relinquished, they next set up a title to the whole country bordering on the gulf of Mexico, by virtue of having taken possession of some of the islands, and the southern coast of that sea; and ordered their viceroy to hunt out and exterminate all foreigners who should be found in that region either on land or water. Notwithstanding these threats, the French penetrated from



Canada to the mouth of the Mississippi, and formed several establishments on the gulf of Mexico; one at New Orleans, one at Mobile, one at Natchitoches, and one at the bay of St. Bernard, and denominated the whole country, Louisiana. In adjusting their respective claims to the American continent, the European nations adopted two principles; one, that the nation, who had gained possession of any particular portion of coast, thereby acquired title to the country watered by the rivers which discharged themselves into the sea, within their limits; or that the possession of the mouth of any river gave title to all the lands watered by its branches; the other, that where two nations had taken possession of different portions of coast, at a distance from each other, the middle line between their nearest establishments was the line of partition between them.

*American claim as to the Louisiana boundary.* On these principles, the American government claimed that Louisiana embraced the whole valley of the Mississippi, westward, and that it extended eastward as far as the river Perdido, that being nearly half the distance between Mobile and Pensacola, and westward on the gulf of Mexico, as far as the Rio de Nord, being about half way between the French establishment at the bay of St. Bernard, their westernmost point on the gulf; and Panaxaca, the nearest Spanish settlement in New Mexico. In terminating the war of 1756, England obtained Florida from Spain, and all that part of Louisiana lying eastward of the Mississippi, except New Orleans, from France; and divided the whole territory into two provinces, denominated East and West Florida. At the same time, France ceded to Spain the residue of Louisiana. In settling the peace of 1783, England ceded the Floridas to Spain, including, under that denomination, all that part of Louisiana which she had received from France. Spain continued in possession of the whole country, under these denominations, until 1800, when she retroceded to France the colony or province of Louisiana, without defining its boundaries, but describing it as being of the same extent as it then had in the hands of Spain, as it had when France possessed it, and as it ought to have, after the treaties subsequently entered into between Spain and other states. This indefinite and contradictory description of the limits of Louisiana, introduced into the treaty of St. Ildefonso, under the direction of Talleyrand, when Spain herself was little more than a province of France, was evidently designed to enable Bonaparte to claim as much terri-

tory under that denomination, as it was convenient for him to hold, or dispose of, in America. In 1803, France sold Louisiana to the United States, with the same description of limits as was contained in her treaty with Spain, and, of course, vested in them all her claims. When the question arose between the United States and Spain, as to these limits, France very readily declared that they embraced no territory eastward of the Mississippi, and but a narrow strip on the west. The French settlement in the bay of St. Barnard, by virtue of which the province of Texas was claimed to be within the limits of Louisiana, was broken up and destroyed by the Spaniards, in 1689, and several establishments on the coast of Texas, were afterwards made by Spain. In the year 1805, a special commission, consisting of Monroe and Pinkney, on the part of the United States, and Don Pedro Cavallos on the part of Spain, met at Aranjuez, with full power to settle the question of the limits of Louisiana, and other subjects of controversy between the two nations, and after spending five months, and writing volumes of diplomacy on the subject of limits, separated, without coming to any result. In the negotiations of 1818, as it was agreed that Spain should cede to the United States all her territory eastward of the Mississippi, the boundary of Louisiana, on that quarter, ceased to be of any consequence, only as it related to the value at which the Floridas should be estimated, in the compromise.

*Western boundary agreed on.* On the west, the United States agreed to relinquish their claim to the province of Texas, a territory several times as large, and much more valuable, than both the Floridas, their title to which, however, was very questionable; and the south western boundary, between the United States and the Spanish dominions in America, was finally established to be a line beginning at the Sabine river, on the gulf of Mexico, two hundred and fifty miles westward of the mouth of the Mississippi, and running in a northerly and westerly direction, to the 42d degree of north latitude, and from thence, on that parallel, to the Pacific ocean. The northern boundary, between the United States and the possessions of Great Britain, from the head waters of lake Superior to that ocean, being on the 49th parallel of latitude, the United States, by virtue of the Louisiana purchase, possess a territory of seven degrees, or about five hundred miles, in width, the whole extent of the continent westward of the Mississippi. The distance

in a direct line, having never been ascertained, is variously estimated, from two to three thousand miles.

The other claims on the part of the United States, introduced into the negotiation rather for the purpose of meeting claims on the part of Spain, than from the expectation of obtaining any pecuniary satisfaction, were, the suspension of the right of deposit at New Orleans; and the injury sustained in consequence of the Spanish authorities in the Floridas supplying the Indians with munitions of war, and encouraging their hostilities, instead of restraining them, agreeable to the terms of the treaty of 1795.

While Spain was in possession of both banks of the Mississippi, near its mouth, the privilege secured to the United States, of the free navigation of that river, was of little consequence to their citizens, unless they could have a place of deposit in the Spanish territory, where the productions of the valley of the Mississippi, which descended that river in boats and rafts, could be transhipped in sea vessels, to foreign markets. By the treaty of 1795, it was stipulated that the United States should enjoy this privilege at New Orleans, until the Spanish government should designate some other place on the river, equally convenient for that purpose. In a few years afterwards, the Spanish superintendent of finance, at New Orleans, arbitrarily suspended this privilege, without designating any other place, under pretence that it was made use of to cover smuggling, and defraud the revenue. On a remonstrance to the Spanish government, the privilege was restored. The damages sustained in consequence of this suspension, formed one subject of claim upon the Spanish government, from that time until the signing of the treaty of 1819. Though it operated as a serious injury to the citizens of the west, yet no individual could claim any definite sum, as the amount of his loss. The suspension, however, formed an item of considerable consequence in the negotiation to balance Spanish claims. It has led to the purchase of Louisiana, an event incalculably of more consequence than all the losses sustained by the suspension.

The countenance given by the Spanish governor of Florida to the Seminole Indians and runaway negroes within his borders, in their hostilities against the United States, contrary to the provisions of the treaty of 1795, were among the principal causes of the depredations on the southern frontier, and the subsequent Seminole war. But as the American government had taken a temporary possession of

the Floridas, and in this manner redressed themselves, it now only formed an item to balance the claims of Spain for taking possession of the territory.

On the other hand, the demands of Spain against the United States were, for permitting a military expedition to be fitted out at New York, under Miranda, against her American colonies; for damages sustained by reason of privateers fitted out in the ports of the United States, with American capital, and manned by American seamen, cruising under the flag of her revolted colonies, against Spanish commerce; and the forcible seizure of the Floridas by the troops under General Jackson. The plenipotentiaries being unable to come to any adjustment of these subjects, they were waived, and by the treaty, which was ultimately ratified, mutually discharged.

*Fraudulent grants.* At the instance of the Spanish minister, the negotiation was suspended from March to October, 1818. In the mean time, the American government received information from their minister at Madrid, that the king of Spain, soon after he had authorized Don Onís to cede the Floridas to the United States, in satisfaction of their claims, had conveyed away all the public or crown lands in the Floridas to three of his subjects; so that the United States, by the cession, would obtain nothing but an empty and expensive jurisdiction, without any ungranted territory out of which their citizens, who had suffered by Spanish spoliation, might be indemnified. Although the American minister was unable to obtain copies of these alienations, or learn their precise dates, he acquired such information on the subject as placed the matter beyond a doubt.

In January, 1819, the Spanish minister having received fresh instructions from his sovereign, the negotiation was renewed. Mr. Adams expressed in forcible terms to Don Onís, the views of the American government in relation to the recent grants of the crown lands in the Floridas; that it was a direct and palpable fraud attempted to be practiced upon them, of which they would not be the dupes; and that no treaty would be made unless these grants were annulled, or some other adequate provision made to remunerate their citizens.

*Terms of the treaty.* On the 22d of February, a treaty was concluded, which contained a stipulation, that all grants made by the crown of Spain subsequent to the 24th of January, 1818, of Florida lands, should be void. It provided,

that the American government should remunerate its citizens to an amount not exceeding five millions of dollars, which should be in full satisfaction of all claims either on the French or Spanish governments, for depredations committed on their commerce by the Spaniards, or by French cruisers in the waters of Spain, or where the captured vessels were carried in, and condemned in Spanish ports; and that Spain might have the benefit of all claims on the French government for remuneration. The treaty also provided for a mutual renunciation of all other claims existing between the two nations. In the course of the negotiation, it was strongly urged on the part of Spain, that the American government should stipulate not to recognize the independence of the Spanish American republics. This was not acceded to, and the United States were left free to act on that subject, as circumstances, in their judgment, should require.

*Delay in ratifying the treaty.* The treaty was immediately laid before the senate; approved by them, and ratified by the president on the 25th of the same month. Mr. Forsyth, of Georgia, was appointed special envoy to the court of Spain, and dispatched with the treaty to exchange ratifications. From the length of time the negotiation had been pending, and the minute discussion which every topic connected with the treaty had undergone, both at Washington and Madrid, it was confidently expected that it would be promptly ratified on the part of the Spanish government; and the *Hornet*, which took out Mr. Forsyth, was directed to wait at Cadiz for that event, and bring home the ratified treaty. Further delay and evasion on the part of Spain was the less to be expected, as the Floridas had long since ceased to be of any pecuniary or political advantage to her. The expenses of the colonial government were burthensome to the parent state, whose authority had become merely nominal. It was evident that they must soon pass into other hands; and Spain had now an opportunity of extinguishing a long existing claim of great magnitude, by parting with what was of no value to her, and what, in all events, she must soon lose. This expectation was confirmed by advertising to the strong and unusual expressions of the king, in the full powers given to Don Onís, and communicated to the president, by virtue of which the treaty was concluded. "We do hereby oblige ourselves and promise," say the full powers, "on the faith and word of a king, to approve, ratify, and fulfil it; and cause to be inviolably observed and

fulfilled, whatever may be stipulated and signed by you, to which intent and purpose I grant you all authority and full power, in the most ample form." But the United States had as yet only got through with the first chapter of Spanish intrigues and tergiversations. The treaty, ratified on the part of the United States, was immediately transmitted to his government by a special messenger from Don Onís, and arrived there early in April. On the 19th of May, the American minister presented his credentials to the Spanish government, informing their minister of foreign relations of his readiness to exchange ratifications whenever it might suit his convenience, and wishing it might be done at an early day, that it might be sent to the United States by their vessel then waiting at Cadiz to take charge of it. Not receiving any answer to this communication, on the 4th of June, he addressed another of the same purport to the minister; and on the 19th received an answer, stating that in view of the great importance of the treaty, his majesty must examine it with the greatest caution and deliberation, before he proceeds to ratify it.

Mr. Forsyth, disgusted and deeming his government insulted by this procrastination, replied in terms inconsistent with diplomatic courtesy, expressing his astonishment at the delay, and his conviction that Spain dare not refuse the ratification; and that the United States knew well how to punish such an act of perfidy, should there be occasion. After a further delay of nearly two months, the Spanish minister, on the 10th of August, replied, expressing his disapprobation of the insulting language, as he termed it, of Mr. Forsyth, and informing him of the determination of his catholic majesty to send a special envoy to the United States to require explanations, before the treaty could be ratified. The time limited by the terms of the treaty for the exchange of ratifications expiring on the 22d of August, Mr. Forsyth notified the Spanish government, that after that period, the treaty not being ratified, all the claims of the United States upon Spain would be uncanceled, and his government free to enforce them in any manner that its honor and interest might require. Afterward, a fruitless discussion of the question, whether, upon the principles of national law, and the peculiar expressions of the king of Spain in his commission to Don Onís, he was bound in all events to ratify the treaty, terminated the correspondence of Mr. Forsyth and the Spanish minister upon the subject.

*Proceedings of congress relating to Spain.* In communicating the papers relating to this negotiation, and its result, to congress, in December, 1819, the president remarks, "that this proceeding, on the part of Spain, has formed a relation between the two countries which would justify any measures on the part of the United States, which a strong sense of injury and a proper regard for the rights and interests of the nation might dictate. Had the United States been desirous of making conquests, or willing to aggrandize themselves in that way, they could have had no inducement to form this treaty, and much cause of gratulation at the course which had been pursued by Spain. An ample field for ambition would be open before them. But such a course is not consistent with the principles of their government, or the interests of the nation." On the whole, the president submits to the consideration of congress, whether it would be proper to carry the conditions of the treaty into effect, in the same manner as if it had been ratified by Spain, claiming on the part of the United States all its advantages, and leaving to Spain all those secured to her. This the president deems the proper course; but as his catholic majesty had twice signified his intention to send a special envoy to the United States to ask explanations on certain points, and to give his reasons for the delay, he recommends to wait the result of that embassy before decisive measures are taken on the subject; and that any act which congress should pass, authorizing the occupation of the Floridas, might be contingent, and its execution left to depend on the result of the new embassy now daily expected from Spain. In the course of the summer, the ministers of Great Britain, France, and Russia had taken occasion to remark to the American government, upon the conduct of Spain in relation to this negotiation, expressing their sense of the justice of the claim, and of the impropriety of the delay, and wishing that no measures of a hostile character might be suddenly taken, and expressing their belief that Spain would ultimately ratify the treaty.

In the house of representatives the subject was referred to the committee of foreign relations; the chairman, by direction of the board, addressed a letter to the president, inquiring whether he considered the treaty, in its present state, of the same force as though it had been ratified by Spain. The question as to the validity of the treaty under existing circumstances, was a point of national law, the solution of which was to be obtained from writers upon that

subject, and not from executive documents. The secretary of state readily gave the desired information, stating his views upon the subject to be, that the treaty was not valid as an executed instrument, under which any rights could be claimed, but was likened to a case at law, of a covenant to convey, where one party refused to execute the deed, in which a court of chancery would place the injured party in the same situation as though the conveyance had been executed; but as no court of chancery to settle contested rights existed between nations but arms, the United States might resort to them and redress themselves. The policy of the measure, under all circumstances, was the only question in the case.

The committee, towards the close of the session, reported a bill, authorizing the immediate occupation of the Floridas; but the president, having received positive information of the appointment of a minister, and recommending a further postponement of the subject, in conformity to the wishes of the principal European powers, no definitive measures were taken at this session.

*Don Vives' mission.* After a delay of ten months, from the time of the arrival of the treaty in Spain, and six, from the period limited for its ratification, Don Vives, a Spanish general of considerable eminence, set out on a mission from his Catholic majesty, to the American government, to obtain from them certain explanations in relation to the treaty, in order to enable his majesty to determine the question of its ratification. Instead of directing his course immediately to the place of his destination, Don Vives made his debut at Paris, to learn the feelings of the French government, and what would probably be their course in case of a rupture between the United States and Spain. Having there received information of a character contrary to his wishes, he proceeded to London on the same errand, and met with the same success. The character of the American nation, at this time, stood high in Europe; the ground taken in relation to Spain was justifiable, and had been maintained with moderation and firmness. The other European nations saw that Spain must yield, or a war which might reach them would be the probable consequence. For such an event they had no desire. Nothing was to be gained by Spain in a war with America. The latter had no colonies exposed to her grasp, no territory to be conquered. The recent display of American naval enterprize, by no means encouraged them to expose their commerce to a se-



cond hazard. Don Vives was given to understand, both at London and Paris, that his government could expect no countenance from the other powers of Europe, in a contest with the United States. With this information, the Spanish minister arrived at Washington in April, 1820. He was not the bearer of a ratified copy of the treaty to be exchanged, on obtaining satisfaction relative to the points on which his government required an explanation; he was not authorized to bring to a close the long existing controversy; his object seemed to be, to open another diplomatic campaign on subjects long since exhausted. In his first official communication, after exhibiting his letters of credence, he stated, that the difficulties which had occurred to prevent his sovereign from ratifying the treaty were, the encouragement given to his rebellious subjects in America, by suffering armaments to be fitted out in the ports of the United States, to their aid; secondly, an expedition which, he said, had been set on foot to take possession of the Texas; and, thirdly, the note accompanying Mr. Forsyth's communications, requiring the recent grants of the Florida lands to be considered void, although they might bear date prior to the 24th of January, 1818. Mr. Erving, not having been able to obtain the precise dates of those grants, it was apprehended that when brought forward, they would appear to be anterior to that time. To guard against a fraud of this description, Mr. Erving had been instructed to represent to the Spanish government, that any grant, designed to defeat the objects of the treaty, would not be regarded, whatever might be its date. Thus, he stated, was essentially varying an important article in the treaty. He required a satisfactory explanation on these points, and a stipulation, that the American government should not recognize the independence of the South American republics, as indispensable conditions, which being complied with, he was ready, not to exchange ratifications, but to give the word of the king, that the treaty should be ratified at some future period.

*Answer of the secretary of state to his communications.* To this communication, Mr. Adams replied, that the American government already had the king's word solemnly pledged to ratify the treaty, and the mere renewal of an old promise could not add to its value; that his government would be satisfied with nothing short of an exchange of ratifications, or an actual surrender of the Floridas, neither of which he appeared authorized to give; and that a further

discussion of subjects already exhausted, could afford no new light or lead to any beneficial result. He would inform him, however, that it always had been, and would continue to be the policy of the United States to maintain a strict and impartial neutrality in the contest between Spain and her colonies; that laws had been made and rigidly enforced, inflicting heavy penalties on its infringement; that his information in relation to any expedition, fitted out or on foot, to take possession of the Texas, to which Spain, he observed, had no title, except what she derived from the unratified treaty, was unfounded. In relation to the fraudulent grants, he gave the Spanish minister to understand, that they never would be recognized by the American government; and the declaration of Mr. Forsyth upon that subject was only intended to express what was the clear understanding of all parties to the instrument, at the time it was made, in order that neither the grantees, nor the Spanish government might be deceived. As to the stipulation, binding the American government not to recognize the independence of the Spanish American colonies, the secretary of state observed, no such obligation had been required of any European power, none could be given by the United States, and they never would consent to enter into any new obligations, in order to induce a fulfilment of those already made. The revolution in Spain which resuscitated the cortes, and made them a constituent part of the government, took place after Don Vives had received his instructions, and taken his departure for America. He stated this fact to Mr. Adams, observing that it might give quite a different aspect to the subject, and the correspondence closed.

In communicating this result to congress, the president stated, that it contained nothing which could operate as a reason for a further delay in taking possession of the Floridas; but as the cortes had now become a component part of the Spanish government, it might be prudent to wait their determination, before the ultimate step was taken. On this suggestion the subject was further delayed, and the cortes at length gave a reluctant assent to the Florida treaty; and the king of Spain, on the 24th of October, 1820, more than twenty months after its first signature, in pursuance of their advice, ratified the treaty, with an express declaration that the contested grants should be considered as null. As the period fixed in the treaty for its ratification had elapsed long before the king of Spain had accepted it, it became necessary that it should be again submitted to the senate. It re-

ceived the final sanction of the American government, on the 22d of February, 1821. The session of congress, terminating on the 3d of March following, they had time to do little more than pass a general law, authorizing the president to take possession of the ceded territory, according to the tenor of the treaty; and provide for its temporary government, according to the laws then existing in the provinces, until the next congress should make permanent provision upon the subject.

*Importance of Florida.* Considered merely as an extension of territory, to a nation already possessing more than can be peopled in several centuries, the attainment of the Floridas was of little consequence. But there were other points of view, which rendered its acquisition desirable, at almost any expense. In the hands of Spain, this territory was the receptacle of a population of the worst kind, constantly exposing the southern frontier, the weakest and most vulnerable of the United States, to depredation. In the possession of a more powerful nation, it would enable them to blockade the mouths of the Mississippi and Mobile rivers, destroy the trade of the United States in the gulf of Mexico, interrupt the water communication between the Atlantic and western states, and encourage Indian hostilities on the southern border. In the hands of the United States, the harbor of Pensacola is an important acquisition to their trade in the gulf; and the extensive forests of live oak found in the territory, afford important resources for the American marine. Its possession prevents the necessity of an expensive chain of military posts, on its northern border. Some of the rivers which pass through the Floridas, on their way to the ocean, take their rise in the United States, and are the natural outlet for the people inhabiting their head waters.

*Extension of military posts.* It was a favorite object of the war department, under Mr. Monroe's administration, to extend the military positions in the northwest, far into the interior of the Indian country, beyond the frontier settlements. The advantages expected from this policy were, to overawe and keep in peace the Indians; encourage the progress of the settlements; to command the fur trade from the neighborhood of the Rocky mountains, said to be the most lucrative in America; prevent the Hudson's bay company from extending their trade towards the sources of the Missouri, and expel the British from the limits of the United States. With these views, a strong military post was esta-

blished on the Mississippi, at the mouth of the St. Peters river, latitude 44 N., nine miles below the falls of St. Anthony. This position commands the navigation of both rivers, and is capable of being rendered, with little expense, secure from an Indian attack. The climate is healthy, and the rich prairies and bottom lands which skirt both rivers, are capable of cultivation, to the extent of affording sustenance for the garrison. A tract nine miles square, and including this position, around the falls of St. Anthony, was purchased of the Indians, in 1805, and occupied by three hundred troops, in 1818. As a military position, it is of great importance, being in the neighborhood of several powerful Indian tribes, who heretofore had been under the exclusive control of British traders, and hostile to the Americans. It affords a ready access into the heart of the Indian country, by several channels: the Mississippi on the north, which is navigable for boats, six hundred miles above the falls; the St. Croix on the northeast, which joins the Mississippi just below the falls, and communicates with lake Superior, by a portage of only half a mile; and the St. Peters on the northwest, which runs through the territory of the Sioux, the most powerful of the Indian tribes, and is navigable several hundred miles.

*Yellow Stone river expedition.* A second post was established at the Mandan villages, on the Missouri, sixteen hundred miles above its junction with the Mississippi, and one hundred and fifty south of an establishment of the Hudson's bay company, on the Assaniboin river; and a third at the mouth of the Yellow Stone, a river which rises from a lake in the Rocky mountains, and running a northeasterly course, falls into the Missouri, eighteen hundred miles above St. Louis. The manner in which the expedition to the Yellow Stone proceeded from St. Louis, was calculated to make a deep impression on the natives adjoining the banks of the Missouri. A steamboat, in the form of a huge water snake, and having every appearance of a live animal, appeared breasting the current, overcoming every obstacle, and dashing through the waters with great velocity, and constantly emitting a dense volume of smoke from its mouth. By an occasional discharge of a heavy gun, the wilderness, for miles around, appeared to echo with the bellowing of the animal. A creature of so imposing an aspect, had a powerful effect on the wondering savages, collected on the banks. In their view, the great evil spirit had arisen from the deep, and was come to punish their transgressions.

They endeavored to appease his anger, by paying homage to his power, in their accustomed manner of worship. The expedition was unable to ascend, the first season, further than the Council Bluffs, twelve hundred miles up the Missouri, and the most northwestern post of the United States. They spent the winter of 1819-20 at this place, making preparation to proceed to the place of their ultimate destination. But the expedition was afterwards abandoned.

*Furstonwether's application.* Among the characters which the spirit of emigration had disposed to transplant themselves from the eastern to the western continent, in the year 1819, was a German by the name of Furstonwether, who had been employed by the Baron de Gagern, to collect information concerning his countrymen in the United States, and solicit favors and encouragement for them from the government; his mission having introduced him to the secretary of state, and led him into a correspondence with that department, the affairs of his countrymen became but a secondary object of his concern, he modestly solicited for himself an office in the department of state, promising, that in case it should be sufficiently inviting, he would transfer his allegiance to this country, and forego very advantageous offers of employment in his own.

*Mr. Adams' reply.* To this office-seeker from Germany, who seems to have supposed that the United States were in great want of talents to administer the government, Mr. Adams replied in a tone calculated for ever to silence such pretensions, and in a manner of which his fellow-citizens must ever be proud. "The government of the United States," he says, "has never adopted any measure to encourage or invite emigrants from any part of Europe. It has never held out any incitements to induce the subjects of any other sovereign to abandon their own country to become inhabitants of this. From motives of humanity, it has occasionally furnished facilities to emigrants, who, having arrived here with views of forming settlements, have specially needed such assistance to carry them into effect. One principle pervades all the institutions of this country, and must always operate as an obstacle to the granting of favors to new comers. This is not a land of privileges, but of equal rights. Emigrants from Germany, therefore, or elsewhere, are not to expect favors from the government. They are to expect, if they choose to become citizens, equal rights with those of the natives of the community: if affluent, the means of making their property productive, with moderation

and with safety; if indigent, but industrious, honest, and frugal, the means of obtaining easy and comfortable subsistence for themselves and their families. They come to a life of independence, and also to a life of labor; and if they cannot accommodate themselves to the character, moral, political, and physical, of this country, with all its compensating balances of good and evil, the Atlantic is always open to them to return to the land of their nativity and their fathers.

"We understand perfectly, that of the multitude of foreigners who yearly flock to our shores, to take up their abode here, none come from affection or regard to a land to which they are total strangers, and with the very language of which, those of them who are Germans, are generally unacquainted. We know they come with views not to our benefit, but their own; not to promote our welfare, but to better their own condition. We expect, therefore, very few, if any transplanted countrymen, who enjoy happiness, ease, or even comfort, in their native climes. The happy and contented remain at home, and it requires an impulse at least as keen as that of urgent want, to drive a man from the seat of his nativity, and the land of his fathers' sepulchres. Of the very few emigrants of more fortunate classes, who ever make the attempt to settle in this country, a principal proportion sicken at the strangeness of our manners, and after a residence more or less protracted, return to the countries from whence they came. There are doubtless exceptions, and among the most opulent, and most distinguished of our citizens, we are happy to number individuals who might have enjoyed or acquired wealth and consideration without resorting to a new country, and another hemisphere. We should take great satisfaction in finding you included in this number, if it should suit your own inclinations, and the prospects of your future life, upon your calculations of your own interest. It is not in my power to add the inducement of office. All the places in the department to which I belong, allowed by the laws, are filled, nor is there a prospect of an early vacancy in any of them. Whenever such vacancies occur, the applications from natives of the country to fill them, are far more numerous than the offices, and the recommendations in behalf of the candidates so strong, that it would seldom be possible, if it would ever be just, to give a preference over them to foreigners. I should not, therefore, do either an act of kindness or justice to you, in dissuading you from the offers of

employment, and honorable services to which you are called in your native country." This pertinent reply to Mr. Furstonwether's application being communicated to him, and made public, extinguished his hopes, and those of many other foreigners, by giving them clear and precise information of what was to be expected from an emigration to this country.

*Second meeting of the fifteenth congress.* Pursuant to a law of the last session, the second meeting of the fifteenth congress commenced on the 16th of November, 1818. A quorum of both houses appeared in their respective chambers on the same day, and received the president's message on the next. It contained a pleasing view of the state of the nation, both in relation to its foreign and domestic concerns. In times of tranquil prosperity, the head of the government finds few subjects of interest to communicate to the national representatives. With a fruitful and healthy season; with a revenue exceeding the estimates and adequate to all the exigencies of government; with a well replenished treasury; with peace at home, and a favorable aspect of affairs abroad; and with a population rapidly increasing, and expanding itself in every direction, the United States appeared "in the full tide of successful experiment."

*Matthew Lyon's memorial.* The incidents of the Seminole war; the situation of the bank of the United States; the conduct of its officers, and the expediency of directing a prosecution to vacate its charter, formed the principal subjects of deliberation this session. Private applications for pecuniary relief were numerous. That of Matthew Lyon, formerly a representative from Vermont, and afterwards from Kentucky, was of a singular character. It stated that he was unjustly prosecuted under the sedition law of 1798, for a publication made before the passage of the law, of a paper expressive of his sentiments of the manner in which the executive branch of the government ought to be conducted, and for reading in the hearing of several persons a letter written by Joel Barlow, then in France, to a member of congress, in which the American government were severely censured for their conduct in relation to France. That by force of this prosecution, which he complains was conducted with great partiality and unfairness on the part of the prosecutor and the court, he was fined a thousand dollars, imprisoned several months, and finally compelled to pay the fine, and several hundred dollars costs.

That during his imprisonment, he was elected a member of congress, and thereby prevented from attending. His claim was for a reimbursement of his fine and costs, with the interest, and a compensation for the losses and injuries sustained by his imprisonment. From the peculiar character of this application, it was referred in the senate to the committee on the judiciary, who reported unfavorably, and the petition was negatived.

*Mr. Calhoun's report on roads and canals.* In compliance with a resolution of the house of representatives, at their former session, directing the secretary at war to report "a plan for the application of such means as are within the power of congress, for the purpose of opening and constructing such roads and canals as may deserve and require the aid of government, with a view to military operations in time of war, the transportation of munitions of war, and also a statement of the works of that nature which have been commenced, the progress which had been made and the means and prospect of their completion;" the secretary, on the 7th of January, presented an elaborate report to the house, stating, that in his opinion, a judicious system of roads and canals, constructed for the convenience of commerce, and the transportation of the mail, only, without reference to military operations, is itself among the most efficient means of defense; as the same roads and canals, with few exceptions, would be required for the operations of war, such a system, by consolidating the union, increasing its wealth and fiscal capacity, adds greatly to the resources of war.

"There is," remarks the secretary, "no country to which a good system of roads and canals is more indispensable, than to the United States. Great as is the military capacity of the country, compared with the number of people, yet, when considered in relation to its vast extent, it must be obvious that it is difficult for the government to afford adequate protection to every part. This difficulty is in a great measure overcome by a good system of military roads and canals." According to his views, in all questions of defense, there are three points which require special attention: the eastern, or Atlantic frontier, the northern, or Canadian border, and the southern, or the frontier of the gulf of Mexico.

For the first object, Mr. Calhoun recommends opening a line of inland sloop navigation, from Boston to Savannah, which he estimates may be done by excavating one hundred



miles of canal, at an expense of three millions of dollars. Another measure of defense, reciprocal for both the Atlantic and Canadian frontier, is the opening a communication by canals, where practicable, and by artificial roads, where canalling is not feasible, between the Atlantic and the west. The points specified in the report, for this object, are, from Albany to the lakes; from Philadelphia, Baltimore, Washington, and Richmond, to the Ohio; and from Charleston and Augusta, to the Tennessee river.

As particularly applicable to the defense of the Canadian frontier, a canal communication from Albany, to lake George and lake Ontario, the secretary remarks, are necessary, both of which are in progress by the state of New York. A communication, also, from Pittsburgh to lake Erie, by the Alleghany river, which, in its main navigable branch, approaches within seven miles of the lake, is important for the same object.

"The real strength of the southern frontier," the secretary remarks, "is the Mississippi, by the aid of which, assisted by the force of steam, an irresistible force can at once be concentrated at the point of danger." The improvement of the navigation of that river, therefore, is the most important measure of defense, for the south. Most of the improvements suggested, are of the first importance to the commerce, agriculture, manufactures, and political prosperity of the country; but are not, on that account, the less necessary for military purposes. Scarcely a road or canal can be designated, which is useful for the operations of war, which is not equally required for the industry and prosperity of the community.

The secretary recommends a survey of the routs, and an estimate of the expenses, to be done principally by the engineers attached to the military service; and the employment of the army, to a certain extent, in the construction of the works, with a provision for extra pay, while employed in that service.

In answer to that part of the resolution which required information of what already had been done, he states, that a road from Plattsburgh to Sacket's harbor, opening a direct communication, on the most convenient rout between lakes Champlain and Ontario, had been commenced; one from the southern boundary of the state of Tennessee, to Madisonville, on lake Ponchartrain, within twenty-seven miles of New Orleans, fifty miles of which were already completed; and one from Detroit, to the rapids of the

Miami, seventy miles of which were finished. The course of the latter road lying through the public lands of the Michigan territory, brought into view, and rendered accessible, a large portion of fertile country, which was rapidly settling.

*Employment of soldiers on roads and canals.* This report of the secretary, brought under discussion an interesting question, how far the military could, with propriety, and consistently with the views with which the soldier enlisted, be employed in constructing roads and canals. The appropriate business of a soldier, is to fight, and not to labor; and fatigue duty had usually been confined to the erection of temporary fortifications, and the opening of military ways, necessary for immediate operations. The construction of a road, over which it might be convenient for an army to pass, at some future period, in case of a war, it was admitted, was but remotely connected with the military. On the ground, however, that employment was better than a state of idleness, and that for extra pay the soldier's consent might be obtained, a resolution passed the senate, by the casting vote of the president, appropriating ten thousand dollars to this object. The session terminated by the expiration of the period for which the house of representatives, and one third of the senate, were elected, on the third of March, 1819.

## CHAPTER IX.

First session of the 16th congress—Message—Admission of Maine and Missouri—Preparatory proceedings of Maine—Her case connected with Missouri—Proposed restriction—Origin of African slavery—Arguments in favor of allowing it in Missouri—Against its farther extension—A compromise—Excitement occasioned by the discussion—Proceedings of several state legislatures, and of the corporation of the city of Savannah upon the subject—Tariff—Separation of the committee of commerce and manufactures—Report of the committee on manufactures—Tariff bill—Bill abolishing credit for duties—Auction bill—A navigation act—An act prohibiting intercourse with the British American colonies—Fourth census.

*First session of the 16th congress.* The first session of the 16th congress commenced on the 6th of December 1819. Mr. Clay was elected speaker by an almost unanimous vote. The president's message, communicated on the 7th, was a plain business-like state paper, the prominent parts of which were a detailed account of the Spanish negotiation; and of an unsuccessful attempt with the British cabinet to obtain a participation in their colonial trade.

*Maine and Missouri.* The subject of the admission of two new states, one at the eastern and the other at the western extremity of the union, and distant from each other about two thousand miles, from the importance of a question incidentally raised respecting Missouri, occupied almost the whole attention of congress. The question assumed a sectional character, and towards the close of the session was attended with more asperity, than any which had agitated that body since the declaration of war.

*Proceedings of Maine.* The district of Maine is separated from Massachusetts proper by the intervention of New Hampshire. The local situation of the two sections, clearly indicated a division, whenever the population and the wishes of the inhabitants of Maine should call for it. In June, 1816, an act passed the legislature of Massachusetts, making provisions for taking the votes of Maine, upon the subject of a separation; and providing for that event in case five-ninths of the whole number of votes returned were in favor of the measure. The act also provided for calling a convention of delegates from the towns in that district, by whom the votes should be received and counted; and on

there appearing to be the requisite number, the convention were authorized to form a constitution for the proposed new state. Such was, at this time, the harmony subsisting between the different sections, that there was but a small majority not amounting to five-ninths in favor of a separation. The convention however were desirous of effecting the object, and resorted to a singular mode of computation to bring it about. They found that on comparing the majorities of the votes in those towns which were in favor of a separation, with the majorities in those which were against it, and rejecting from their computation all other votes, leaving those on one side to balance the other, they somewhat exceeded five-ninths. This they decided to be, in their opinion, a compliance with the act ; but as there were some doubts upon the subject, they referred it to the next legislature, and adjourned until after its session. That legislature at once decided, that the requisite number of votes in favor of a separation had not been given, and declared that the powers of the convention were at an end.

The sense of the people of the district was again taken upon the subject in the year 1819, when there appeared to be a large majority in favor of a separation. The legislature of Massachusetts gave their consent, and the people of Maine proceeded to form a constitution. Early in the session these proceedings were laid before congress. The provisions of the constitution upon the subject had been complied with, and no objection appeared against receiving this new sister into the American family. The first clause in her bill of rights, declaring that all men at their birth are free and possessed of equal rights, necessarily excluded slavery from her system. A bill passed the house of representatives for her admission as a matter of course, and without debate, except in some of its minor details.

*Admission of Maine connected with Missouri.* In the senate this bill was amended, by annexing to it a provision for the admission of Missouri. Mr. Roberts, of Pennsylvania, proposed another amendment, providing that the further introduction of slavery into the new state should be absolutely and irrevocably prohibited. This proposition arrayed the south against the north; the slave-holding against the non-slave-holding states, and called forth all the talents and much of the rancor of the champions on each side. The application for the admission of Missouri had been presented the last session, and a bill for that purpose had passed the senate. In the house of representatives it was amended

by annexing a clause restrictive of slavery, similar to the one now proposed; and the bill was lost in that congress by the final disagreement of the two houses on the subject. On the appearance of the application of Maine at the commencement of this session, the advocates for the unrestricted admission of Missouri, deemed it a favorable opportunity to carry through the measure by connecting the two subjects. Various attempts were made to separate them, but without success; and the existence of Maine as a state, was, by this mode of proceeding, made to depend on a question which had no relation to her case.

*Origin of slavery.* The proposition that all mankind are born free, and with equal rights, had found its way into the declaration of independence, and the congress of 1776 had, in behalf of the people of the United Colonies, "pledged their lives, their fortunes, and their sacred honors," for its support. The same proposition had been transplanted into the bills of rights prefixed to most of the state constitutions, and was considered as the corner-stone on which the American republics were built. That one portion of the human race could have any legitimate right to hold the other in perpetual bondage; or that there was any thing in the form, complexion, or intellect of the African negro, which should divest him of his natural rights, were propositions in the abstract, too absurd to find an advocate. Notwithstanding the principles on which involuntary, perpetual slavery is bottomed, are palpably false, the fact of its existence beyond the period of human research, cannot be denied. War has been coeval with the existence of the human race. One of its first maxims was, that each belligerent had a right to take the life of his enemy, and this, it was claimed, included all other modes of disposing of his person, when in the power of the victor, of a less severe nature. Hence it became a universal principle of ancient warfare, that the conquerors had a right to subject the vanquished to death, or perpetual slavery. The interest of the victors, enforced by the supplications of their prisoners, generally led to the latter mode of disposing of their persons. The purchaser, when the prisoner was sold, was supposed to have obtained all the right of the original captor, and to have the absolute power of life and death, over the slave and his posterity. When the humane principle, that the lives of prisoners were to be preserved as the subject of exchange, or restoration at the close of the war, came to be introduced into the modern belligerent system, the original ground of slavery

ceased. But the satisfaction afforded to the slave-holder, of having a number of the human race subject to his uncontrolled will, and the profits derived from slave labor, were too great readily to be given up.

About the same period, there was discovered along the western coast of Africa, a poor degraded species of human beings, just fitted, in the opinion of more enlightened nations, to the purposes of slavery. The idea was first introduced by the Jesuits, sent out to christianize the Indians of the Spanish American provinces. The Spaniards, not content with robbing the Indians of their possessions, compelled them to perform the labor of the soil, and of the mines. The Jesuits found this to be a great obstruction to their missions. The untutored Indian was able to discover the incongruity of the practice of the Spaniards, with the principles inculcated by their spiritual teachers. To rescue the Indians from slavery, the Jesuits directed the attention of the Spaniards to the coast of Africa; and thousands of the tenants of that region, were hunted out, caught, and transported to America, and doomed to perpetual servitude. According to the reasoning of the Jesuits, two important and benevolent objects were answered by this measure; one, that it left the native Indians free to receive their instructions; the other, that it transplanted from the abodes of paganism, to a Christian land, a portion of the human race, who must otherwise have perished without hearing the joyful news they were commissioned to publish. If by these means, a few, or only a single individual, should perchance obtain eternal salvation, the evils of slavery would be overbalanced by the greater good.

These reasonings effectually quieted the consciences of Christian slave-holders, so that the most scrupulous could purchase and hold as many as his pride or avarice required. When other nations had obtained possessions in America, they found it necessary, in order to compete with the Spaniards, to have resort to slave labor. In this manner, slavery became established throughout the whole of the European dominions in America; and the coast of Africa became a scene of rapine and slaughter, by means of its inhabitants making war upon each other, to obtain prisoners to sell to European slave-traders. This traffic in all its horrors, and slavery in all its odious characteristics, existed in the new world unquestioned, from the age of its discovery, until the commencement of the American revolution, a period of nearly three centuries. At the same time, the piratical

states of Barbary, as if to give the Christians of Europe and America a convincing proof of the practical effects of their system, made slaves of all the subjects of Christian powers, on whom they could lay their hands. No difference existed in the two systems, except that the African barbarians did not attempt to justify theirs by any false or hypocritical reasonings.

*Abolition of slavery in the north.* The discussions on the subject of the rights of man, to which the American revolution gave rise, necessarily connected themselves with the question of African slavery. The picture of an American patriot, signing a declaration that all men were born free and with equal rights, with one hand, and brandishing a whip over the head of a slave with the other, appeared too glaringly incongruous, not to be noticed. The states north of Maryland, early took measures for the gradual abolition of slavery, and have happily effected the object; and the place of slaves in the field, has long since been supplied by a hardy and industrious race of laborers, who compose much of the physical strength of the country, and on whom reliance can always be placed for its defense. The opinion that land could not be successfully cultivated without the aid of slave labor, has been proved to be altogether unfounded: and the extinction of slavery is always enumerated by the citizens of the north, as one of the happy effects of the revolution.

*Slavery continued in the south.* In the states south of Pennsylvania, slaves were much more numerous than at the north. The extensive plantations in that section were generally cultivated by them. The white population considered field labor as disgraceful, and fit only for slaves. It was also said that the constitutions of the white people would not bear the fatigue in the warm and enervating climate of the south, and if slavery must be given up, most of the rich country of the south must be abandoned for the want of hands to cultivate it. Considerations of this nature reconciled the inhabitants of the south to the continuance of slavery among them. It deserves, however, the serious consideration of the southern planter, whether by adopting the modern improvements in the implements of husbandry, and a more extended use of horse and ox labor, crops may not be raised with as little expense, and their plantations made equally profitable without, as they are now with slave labor. Until the agitation of the Missouri question, no disposition had ever appeared in the slave-holding states to ex-

tend the principle. In 1784, Virginia ceded the territory northwest of the Ohio, now comprising the states of Ohio, Indiana, and Illinois, to the United States; and in forming a system for the territorial government of that country in 1787, she was the first to propose as one of its irrevocable articles, the perpetual exclusion of slavery. In forming the constitution of the United States at the same period, the subject of African slavery gave rise to some of the most delicate and difficult questions which occupied the attention of the convention. A general power to regulate commerce with foreign nations, and among the several states, contained in the eighth section of the first article, unquestionably gave congress authority to prohibit the importation of slaves altogether, or to lay prohibitory duties on them, and to forbid the selling of them from one state to another. The states of South Carolina and Georgia refused to accede to the constitution, unless congress were prohibited from exercising these prohibitory powers for twenty years, and from laying a higher duty than ten dollars a head on their importation. At the expiration of this period, which took place in 1808, the philanthropists of Great Britain, in opposition to the powerful interests of the West India planters, and the great commercial capital engaged in the traffic, had nearly succeeded in abolishing the slave trade in that nation. The discussions which took place in the British parliament upon this subject, brought to light such scenes of cruelty and murder in their most shocking forms, practiced in kidnapping and transporting these unhappy beings from the place of their abode to that of their servitude, as induced a general detestation of the traffic. As soon as congress possessed the constitutional power, they passed a law prohibiting the importation of slaves, and inflicting heavy penalties on their citizens for being in any wise concerned in the traffic. The public sentiment against slavery and against the trade, from that period, has been rapidly advancing both in Europe and America. This subject more distinctly marked the northern and southern sections of the union, than any other. At the time of its agitation in relation to Missouri, the union consisted of ten slave-holding and twelve non-slave-holding states; the former containing a population, omitting fractions, of three millions of free citizens, and one million five hundred thousand slaves, with eighty members in the house of representatives; the latter of five millions two hundred and sixty thousand citizens, with one hundred and five members.



*Arguments in favor of slavery.* The proposed new state lying without the limit of the original union, and in such a northern latitude as to preclude the plea of necessity for slave labor arising from the enervating nature of a southern climate; the policy, expediency, and moral fitness of the further extension of slavery, fairly presented themselves to the consideration of congress, and every topic in any measure connected with the subject, underwent a thorough discussion. The gentlemen from the south contended that this was entirely a matter of state regulation. That the constitution found a large portion of the United States in possession of slaves, that it left them so, without allowing congress to intermeddle in any other manner than to prohibit their further importation after a given period. That no such powers as are now claimed to be exercised towards Missouri, have ever been attempted in relation to the original states. They are willing, they say, that their sections of the country should bear all the odium, the evils, and the immorality attached to the slave system. Their slave population they contend are as happy, as contented, and fare as well as the laboring classes of community in any country. Few of them would be willing, could the question be fairly presented to their consideration, to exchange conditions with the half-starved, laboring population of Great Britain and Ireland. Admitting slavery to have been an evil in its origin, it has now become so interwoven with the system of things in the south, that it would be a still greater evil to attempt its abolition. Admitting Missouri into the union, will not, they claim, operate to increase the number of slaves; but merely to diffuse those already existing over a greater portion of territory much to their comfort and happiness. As the further importation of slaves is prohibited, none can exist in the United States except those who are now therein and their posterity; and they must continue to be slaves, unless congress are prepared to violate the most sacred right of property by their emancipation, whether confined to the original slave-holding states or extended over the regions of the west. The principles of philanthropy and benevolence, so much insisted on, are opposed to the restriction. Independent of these considerations, there were others that were by no means to be laid out of the account. The citizens now inhabiting that territory have purchased their lands under the reasonable expectation of cultivating them by slave labor; to deprive them of that privilege would be the diminishing of the value of their purchases without their

consent, and an arbitrary act of injustice. It would preclude the inhabitants of the slave-holding states from purchasing, and removing to the west, as they could not carry with them their slaves, and knew no other mode of cultivating their lands. The restriction, they contended, by excluding slave-holders from the market of public lands and preventing their being cultivated by slave labor, would reduce their value one half, and in the end occasion a loss to the United States estimated at one hundred million of dollars. But whatever the opinion of members might have been, if the question was open to discussion on its original merits, they contended that, by the treaty ceding Louisiana to the United States embracing this territory, congress were absolutely prohibited from imposing this restriction. The clause relied on is in these words: "The inhabitants of the ceded territory, shall be incorporated into the union of the United States, and admitted as soon as possible according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States." One important right enjoyed by all the states, except where it has been relinquished by voluntary compact, is that of legislating on this subject as they think proper.

*Arguments against it.* These arguments were met and combated with great force by gentlemen north and west of the line of separation. By the disputants on both sides, the decision of this question was considered as establishing a precedent which must govern all future cases, and in that view was deemed of the first importance. As an original question, it was contended that the right of holding a portion of the human race in perpetual bondage, would not bear an argument. No illustration was necessary to prove the absurdity and wickedness of the pretension. It was now proposed to extend the evil over a territory of greater dimensions than the original United States, and over unborn millions of the human family. No person, convinced of the injustice and immorality of the practice in its origin, could be accessory to this extension without a flagrant violation of his duty as a citizen or a legislator. In addition to the moral considerations, there were political and economical ones which ought to be decisive. The constitution was a matter of compromise between the slave-holding, and the non-slave-holding states, giving to the former a representation in congress, and a voice in the election of a chief magistrate.

for three fifths of this population, the only consideration for which was that direct taxes, when necessary to be resorted to, should be assessed in the same ratio. The state of the finances in time of peace not requiring this aid, the non-slave-holding states were subject to the inconveniences, without enjoying the benefits expected from the compromise; and a further extension of the principle operated to increase and perpetuate this inequality.

Where slave labor is principally relied on, the militia are few and feeble, and their services required to overawe and keep in subjection the slaves. The nation must be protected by the militia of the non-slave-holding states.

It was further urged, that permitting slaves on the border settlements led to a connection between them and the Indians, hazardous to the frontier. The recent Seminole war had its origin in this connection. Former masters were generally the first victims of the united vengeance of the fugitive slave, and the dispossessed Indian. In reply to the argument, that permitting slavery to exist in Missouri would not increase their numbers, it was said, that in a country so extensive, and so sparsely settled, smuggling slaves from abroad could not be prevented. Wherever there was a market opened, these wretched victims would be found to supply it. To meet the continually increasing demands of the west, slaves would be raised, and purchased in the Atlantic states, and transported in droves with little less cruelty than attends their passage across the Atlantic. It was often insinuated, that the prospect of this gainful traffic was among the most powerful arguments against the restriction. Such a scene of internal trade in human flesh, it was said, would disgrace any country; much less ought it to be permitted in one which boasts of being the only free and happy country on earth.

In answer to the objections arising out of the Louisiana treaty, it was said, that slavery was already abolished in a majority of the states; it was not, therefore, one of the federal rights common to all, contemplated by the treaty. In the three new states northwest of the Ohio, slavery was expressly excluded by compact. No treaty could bind congress to perpetuate a practice wrong in itself. The proposed restriction allowed the present inhabitants the benefit of all the slaves they might own at the time of passing the bill, and only provided against the further extension of slavery where it did not then exist. In point of fact, it was contended, that in every instance except in the case of

Vermont, where congress had exercised the power of admitting new states into the union, they had annexed certain conditions or restrictions to such admission. This was only a proposition to the citizens of Missouri, situated without the limits of the original parties to the federal compact, which they were free to accept or reject. They might refuse it, and remain in their colonial state, subject to such regulations as congress might establish. In the senate, on the final question on Mr. Roberts' amendment, the votes were, in favor of the proposed restriction sixteen, and against it twenty-seven; all the members of the slave-holding states, and Mr. Parrot from New Hampshire, Hunter from Rhode Island, Lanman from Connecticut, Palmer from Vermont, Vandyke from Delaware, and Edwards and Thomas from Illinois, voting in the negative.

This subject lingered in debate from the commencement until nearly the close of a long session. In the mean time, the proposed state of Maine became impatient of her unfortunate connection with Missouri; and earnestly solicited congress that the two cases might be separated. Her representatives were the more urgent on this subject, as the proceedings of the legislature of Massachusetts relative to her becoming a separate state, were bottomed upon the condition of her being admitted into the union previous to the 4th of March, 1820. As that period drew nigh, they made a spirited representation to congress, requiring a decision upon their application, disentangled from the Missouri question. The anti-restrictionists, apprehending their case to be hopeless, without the influence of this connection, refused a separate consideration; in consequence of which, the senators and representatives of the district of Maine, in the Massachusetts legislature, applied to that body for a repeal of the condition limiting the time for their admission into the union.

*The compromise.* At length, after the speakers had exhausted all their eloquence, and congress and the public all their patience upon the subject, the following compromise was proposed, that slavery should be allowed in Missouri, and in all the territory south of thirty-six degrees and thirty minutes north latitude, being the latitude of the southern boundary of Missouri, and about as far north as upon an average slavery is tolerated in the original states; and prohibited in all the territory northerly and westerly of those limits. On the territory exclusive of Missouri, where it was permitted, there were a few inhabitants who might be

affected by a decision of the question ; on that where it was prohibited, there were none. After considerable discussion, and without much other reason than an ardent desire to bring the subject to a close, the compromise was agreed to in the house of representatives, ayes ninety, noes eighty-seven, and an act passed agreeable thereto.

“ In this contest of principle, the victory was altogether on the side of the slave-holding states, yielded indeed with great reluctance, only in the spirit of forbearance. Slavery was admitted in every region where there were people who wanted it, and prohibited only where there were none ; and this prohibition subject to the future legislation of congress, whenever the territory should be inhabited, and its citizens apply for admission into the union.

*Excitement on the occasion.* The agitation of this question occasioned great excitement, and many things were done, which, after the fervor had subsided, were universally condemned. The slave-holding states considered the measure as an assumption of power, not warranted by the constitution, dangerous in principle, and in effect leading to an abolition of slavery, and a destruction of that species of property. Resolutions were passed in some of the legislatures, denouncing the measure in unqualified terms, recommending to the inhabitants of Missouri to reject the condition, should it pass congress, and giving them assurances of support in such an event. These apprehensions of the citizens of the south on this subject, were not well founded. However much the non-slave-holding states may hold the subject in abhorrencé ; whatever moral or political evils may be attached to the practice, as between the original parties to the federal compact, it is exclusively a subject of state legislation. Except in the single instance of prohibiting the traffic in slaves between the United States and Africa, the general government have no powers to interfere : and for the peace of the nation, it is hoped that few occasions will occur of agitating any question relating to the subject. None of the guilt, and few of the evils resulting from the measure, can attach themselves to the people of the non-slave-holding states.

*Proceedings at Savannah.* A singular instance of the extreme sensibility of the people of the south on this subject, occurred at Savannah.

In January, 1820, while the Missouri question was laboring in congress, a destructive fire desolated that city, and reduced many of its inhabitants from affluence to a state of

absolute want. An affecting appeal was made by the city authorities, in behalf of the sufferers, to the humanity of their fellow-citizens, throughout the United States, and was responded to by liberal contributions in their behalf. In the city of New York, ten thousand dollars in money, and nearly an equal sum in provisions and clothing was collected and transmitted, with a request that it might be applied "to the relief of indigent persons, sufferers by the late fire, *without distinction of color*, who are dependent on their own industry for support." The magistracy of Savannah refused to accept the donation, and returned it to the donors, remarking that they would not accept it with the condition annexed; that "it was calculated to awaken, and put forth impressions, not only dangerous to the tranquillity of that section of the union, but in reference to the humanity of the citizens of Savannah grossly injurious, and palpably incorrect; that it was throwing among them the fire-brand of discord, and if persevered in, would shake to its foundation the beautiful fabric of liberty, and jeopardize the federal unity of the republic." Their letter concluded with some general remarks unwarrantable by the occasion, and altogether inconsistent with the rules of civility, and the respect due to the generous contributors. "Traitors and demagogues," say they, "who only seek their own aggrandizement, may be permitted to smile amidst the havoc thir unprincipled ambition may create; but that a true hearted American, devoted as he ought to be to the happiness and best interests of his country, should, under any metaphysical notions of abstract human rights, place in danger the union of these states, offering, as they do, the last and only rampart on earth against the inroads and aggressions of tyranny, is an impiety, madness, and folly, without the apology of any reason or motive. It is a moral malady, for which there can be no remedy; an infatuation, no analogies of the mind can explain." The rejected donation was applied to the relief of the indigent citizens of New York, without distinction of color, and Mr. Colden, in behalf of the donors, expressed their surprise and regret, that a wish, intimating the objects to which their charity should be applied, should have excited such a train of reflections as appeared in the letter. Any reference, the most remote, to the subject in agitation between the different sections of the union, or any sentiments other than those of sorrow and sympathy for their calamity, were disclaimed. The publication of this correspondence, put an end to all

further donations in the north, and prevented some, which had already been collected, from being transmitted to the sufferers.

About the same time, the American insurance company, of Philadelphia, in answer to an application from a gentleman in Savannah, to insure his house and furniture against fire, informed him "that they declined making insurances in any of the slave states." This letter, published in the newspapers of the south, did much to keep up the irritation. In the non-slave-holding states, the legislative bodies, and assemblages of the citizens in various circles, expressed their full conviction of the constitutional right of congress to prohibit the further extension of slavery, and the high importance, and absolute necessity of the measure, to the well being of the country.

*Tariff.* The tariff of 1816, had by no means given the desired encouragement to American manufactures. They were still unable to compete with the British, in the home market. England had indeed succeeded in preventing Bonaparte from forcing the continental system on Europe. But on the return of peace, the nations of the continent voluntarily adopted the principles of that system, and excluded, from their markets, every article of foreign growth or manufacture, which their own country was capable of producing. No nation ever thought of adopting a principle, which seems to be of modern discovery among some political economists of America, that of encouraging foreign trade at the expense of domestic production. Neither Great Britain or any other power, however zealous to promote their commerce, makes the least sacrifice of national industry to that object. British manufactures still continued to be excluded from the continental markets, wherever a domestic production could supply their place, and to be thrown into the United States, in quantities far beyond the wants or abilities of the people, and at such rates as to destroy domestic competition. Petitions from the manufacturing interest were numerous, and urgent, presenting to congress a very unpropitious view of its condition.

*Subjects of commerce and manufactures referred to different committees.* In the house of representatives, the subjects of commerce and manufactures had heretofore been unitedly referred to the same committee: at this session they were separated, and the manufacturing interest referred to a committee charged with that subject alone. The speaker, himself, a distinguished advocate of manufactures, placed at the

head of this committee, Mr. Baldwin, of Pittsburgh, an able and eloquent supporter of the interests of this class of citizens. The district represented by Mr. Baldwin, was one of the most manufacturing sections of the union. Pittsburgh, built on the forks of the Alleghany and Monongahela rivers, which furnish the means of communication with an extensive and rich country, separated from the sea-board by a ridge of high mountains, at a distance of three hundred miles, and furnished with an inexhaustible bed of coal in its vicinity, enjoys manufacturing advantages superior to almost any other portion of the union. Its citizens early perceived and brought into operation these facilities. During the war of 1812, its growth was rapid, and its manufacturing establishments prosperous. At its close, the inundation of British goods depressed all, and ruined many of the most valuable ones. On this occasion the electors of this district, uninfluenced by party feelings, or the arts of aspiring demagogues, selected one of their most able and intelligent citizens to support their claims. He had the Herculean task to meet and combat the various other interests which were supposed to conflict with this, supported by the talents of their respective advocates.

*Report of the committee of manufactures.* The committee reported three bills designed to give farther encouragement to American manufactures : One,

A revision of the tariff, with a view of imposing such duties on foreign manufactures as should give a decided advantage to the domestic : Second,

An act abolishing credit for duties on imported manufactures : Third,

A heavy duty on auction sales of foreign manufactured goods.

*Tariff bill.* These subjects next in importance to the Missouri question, occupied much of the attention of congress. In the discussion of the tariff bill, the same general course of reasoning, and the same diversity of sentiment between the mercantile interest of the north, united with the planters of the south on the one hand, and the manufacturing and agricultural interests of the northern, middle, and western states on the other, as took place in 1816, again appeared, together with some additional considerations in favor of the manufacturing concerns. Experience had now demonstrated that these establishments could not exist without further encouragement. Both skill and material were now improved, and with reasonable support, the de-



mand in many articles might be well supplied from domestic sources. In the house of representatives, the tariff bill reported by the committee, passed with some alterations—ayes 90, noes 69. In the senate it was postponed to the next session—ayes 22, noes 21.

*Bill for abolishing credits.* In favor of abolishing the systems of giving credit for duties on importations, it was urged, that it was a novel practice, not adopted by any other nation; and allowed here, in the first instance, only on account of the exhausted state of the country, and the want of capital. That these reasons no longer existed. That it was now taken advantage of by foreigners, to inundate the country with their manufactures, make quick sales, and with the very capital which this credit for duties enabled them to collect from the consumer, to renew their importations. That much revenue, although paid by the citizens in the enhanced price of the goods, never reached the treasury in consequence of the bankruptcy of this description of traders. From the treasury report it appeared, that about one-fifth of the amount of a year's revenue, or upwards of four millions of dollars was in suit, a considerable portion of which would ultimately be lost. It was urged that the United States ought to profit by the uniform experience of the commercial nations of Europe, who had found that the best, most effectual, and least expensive mode of collecting their imposts, was to store the goods in government warehouses until the duties were paid. On the final question on the bill, it was negatived, ayes 55, noes 91.

*Auction bill.* On the the subject of auctions, it was said, they were ruinous to the regular trader. The goods sold were generally of an inferior quality, though of a high polish, made for the purpose of sale without close examination. The auction rooms were generally supplied by foreigners, who took this method to throw into the country great quantities of cheap deceptive goods, to the prejudice of substantial American fabrics. A bill laying a duty of one per cent. on sales at auction of groceries, and goods of that nature, and five per cent. on foreign manufactures, passed the house of representatives, ayes 89, noes 61. In consequence of the vote of the senate, postponing the tariff bill, this vote was afterwards re-considered; the auction bill being a part of the same system, the whole subject was referred to the next session,

*French tonnage duty.* On the principle of allowing a fair competition to navigation, congress had passed a law at a former session, abolishing the discriminating tonnage

duties, in relation to the vessels of all nations, which should adopt similar regulations in regard to American shipping. The measure was generally approved by foreign powers; but the French, desirous of securing to their navigation the transportation of the heavy articles of cotton, tobacco, and other productions of the United States, laid a prohibitory tonnage duty on American shipping in their ports. At this session, congress met this regulation by a counter duty of eighteen dollars a ton on French vessels visiting American ports, annexing a provision to the act, that it should cease whenever the French government should repeal their obnoxious decree.

*West India trade bill.* The executive having failed to obtain any relaxation of the colonial system from the British government, congress passed an act, closing their ports against all British vessels coming from their American possessions, and prohibiting any British vessels from transporting the productions of the United States to those colonies; and also forbidding the importation, on any terms, of any articles from those colonies, which were not the production of the place whence shipped. The object of this commercial war, was to operate upon the necessities of the British West India possessions, in such manner as to induce their government to relax their colonial system, in favor of American navigation. This attempt, like every other to coerce the British government to give up a favorite principle by hostile legislation, failed. No one maxim of their policy seems to be more firmly established than this, not to be driven from a point, by the legislation of other nations, directed against their commerce. A ministry that should suffer their measures to be influenced by such considerations, must prepare to quit their posts.

Notwithstanding the slave trade was prohibited, under severe penalties, the temptation overcame the hazard of detection, and American citizens still continued to engage in it, in considerable numbers. The British and American governments were united in their views of the iniquity of this traffic, and in their wishes to prevent it. A variety of negotiations took place, in order to produce a union of exertions for this object. The proposition on the part of Great Britain was, that there should be a mutual right of search allowed, for this purpose only: that principle, however, in the abstract, and in every shape, being what the American government had always contended against, could not be acceded to; and each took their own measures to

prevent the traffic. Under the provision of the constitution, authorizing congress to define and punish piracy, an act was passed, extending the definition and the punishment of that crime to the slave trade.

The year 1820 being the period for taking the fourth census, the necessary provisions were made this session, for that purpose. In consequence of the very loose and imperfect manner in which former censuses had been taken, the enumerators under the present act, were required to make personal inquiry of one of the heads of each family, or at their dwelling houses, of the number and description of persons belonging to their respective families, on the first Monday of August, 1820, distinguishing the number of persons engaged in agriculture, commerce, and manufactures, respectively; and describing the several manufacturing establishments, and their productions, within their respective districts.

After a laborious and interesting session, of something more than five months, congress adjourned, on the 12th of May, to the second Monday in November. The two great subjects, which almost exclusively occupied their attention, the tariff, and the Missouri question, were both of a sectional character, and both terminated in conformity to the wishes of the south.

## CHAPTER X.

Republics of southern America—Their importance, extent, situation while Spanish provinces, as to commerce, religion, political information, intercourse—Commencement and progress of the revolution—Their systems of government—Neutral policy of the United States—Perilous situation of American citizens, taken and sent to Spain—Agents sent by the American government to ascertain the progress of the revolution—Their report—Their independence recognized—Remonstrance of the Spanish minister—Communications of the American to the European governments, on the subject—Views of Great Britain, and the other European powers—President's message on the subject of European interference—Noticed by the English and French journals—Independence recognized by Great Britain—Difficulties experienced in settling their internal governments—Proposition for a general congress at Panama—United States invited to send envoys—Correspondence on the subject—Invitation accepted—Envoys nominated—Debates in congress relating to the mission—Meeting of the congress at Panama—Their proceedings—Adjournment to Tacubaya.

*South America.* The situation of the republics of southern America, late provinces of Spain, since the commencement of their struggle for independence, has ever been regarded by the government and people of the United States, with great anxiety. Few events in the history of nations, are of greater importance than that revolution. In a political view, it is an extension of the American principles of civil government, over a great and growing country. It establishes them in the west, beyond a possibility of a doubt; and affords a fair promise of their ultimate success in the eastern hemisphere. It introduces into the family of nations seven large and flourishing republics, whose citizens have hitherto been excluded from the commerce of the world, and of whom very little was known, except their existence. In a commercial view, it opens a field to engage the enterprise, labor, and capital of other nations, the extent of which cannot be foreseen.

*Territory.* The territory of these republics now extends from the forty-second degree of north latitude, to the southern extremity of the continent, on the parallel of fifty-six south, a distance of upwards of six thousand miles, and something more than one quarter of the circumference of the globe. Their greatest breadth is about two thousand miles. They embrace the whole American continent south of the southern boundary of the United States, with

the exception of the empire of Brazil and Surinam. The number of inhabitants, though not accurately known, is estimated at twenty millions.

*Government under Spain.* The Spanish colonial system had been gradually extending itself over this region from the discovery of Columbus, at the close of the fifteenth, to the commencement of the nineteenth century. In the mean time, Spain herself, from being one of the first and most powerful monarchies in Europe, had degenerated into one of the weakest and most insignificant. Her great object has been, to enrich and aggrandize herself from her colonies. The prominent features in the management of her ultra-marine possessions have been, to exclude them from all commercial and social intercourse with other nations; foreigners found there without the permission of government, were subject to capital punishment; to draw into the national treasury the whole profits of their mines, the principal wealth of the country; and to prohibit the inhabitants from raising or manufacturing any thing, even for their own consumption, which it was convenient for the mother country to supply. The colonial department was under the superintendence of a board of Spanish grandees, denominated the council of Indies, whose edicts, issuing from their hall of session in Spain, controlled the affairs of the provinces. The executive power, the administration of justice, the collection of the revenue, and their ecclesiastical affairs, were conducted by a numerous train of officers, natives of old Spain, who could make interest with the council of the Indies, to enable them to enrich themselves with the spoils of the new world. The country was divided into numerous vice-royalties, no otherwise connected than as subjects of the same oppressive government of the parent state. The population was of a mixed character, and of four grades; natives of old Spain; persons born in the country of Spanish parents; original inhabitants; and Creoles, the offspring of the union of Spaniards with the natives.

The Spanish Roman Catholic creed, in all its bigotry, was the established religion, and the only one tolerated in the provinces. The governing principle of this system was, to keep the people in ignorance of every thing, except what the ecclesiastics, under the direction of their supreme pontiff, should teach. All political and religious discussion was not only discouraged, but prohibited. The maxim, that the more ignorant the people, the more easily they might be

governed, had been practiced upon for four centuries, and at the commencement of the nineteenth, exhibited, with many exceptions, a weak and debased population. Notwithstanding the efforts of the Spanish authorities to exclude political information, the revolutions which had taken place, the last half century, and the principles upon which they were bottomed, became partially known in the provinces. Some of their inhabitants had received their education; others had traveled in the United States and in Europe, and returned with principles ill adapted to their colonial and depressed state.

*Revolution.* In the year 1810, after a series of misfortunes, the Spanish nation submitted to the yoke of Napoleon, who placed his brother Joseph on the throne. This afforded a pretext and a favorable opportunity for a revolution in the provinces. It commenced at this period in Buenos Ayres, and gradually extended through the whole of the Spanish American continent. A civil war was the consequence, which continued with various and alternate success, until 1826, when it resulted in the expulsion of every hostile Spaniard from the country; the parent state, at the same time, passing through a series of disastrous revolutions, in every one of which, however, the reigning power exerted its utmost efforts to subjugate the colonies. The last armament destined for that object, assembled at Cadiz in 1819, refused to embark, and joined the patriots of their own country, in resisting the despotism of Ferdinand. During the last short period that the cortes exercised the sovereignty of Spain, they appeared equally indisposed to the independence of America. Their scheme was to govern it in a milder and more palatable manner, by admitting a representation from the colonies to a general cortes, which was to be considered as the supreme authority of both Spains. But as this assembly was to hold its sessions in old Spain, whose representation would be more than double that of new, the latter immediately perceived that the proposition was delusive, and of no practical benefit to them, and rejected the measure. The cortes, in February, 1822, published a declaration, announcing to all other governments that any recognition of the independence of their ultra-marine provinces would be viewed as an act of hostility against Spain, who had relinquished none of her claims upon them. The province of Buenos Ayres, which has since assumed the name of the Argentine republic, declared itself independent in 1816. The other provinces, at differ-

ent periods since that time, have followed the example ; and Spanish America now consists of seven distinct republics, independent of their parent state, and of each other.\* The fifteen years war carried on by them with the mother country, while progressing from a colonial to an independent state, was without a general concert or union under a federal head ; each republic raising, organizing, and paying their respective troops, in such numbers and manner as they thought proper ; and employing them, for the most part, in defending their own territory, but occasionally assisting their neighbors.

*Systems of government.* The systems of government framed during this revolutionary period, were imperfect imitations of the American constitutions, resembling the originals in the distribution of the powers of government, and in the appointment of the public functionaries. Perpetual slavery was prohibited. They all had one great and radical defect, evincing the low state of political and religious knowledge, and the influence of a bigoted hierarchy ; the Roman Catholic religion was declared to be the only true system of faith, and ordained as such by their constitutions, to the exclusion of all others. The most that men of liberal minds could obtain on this head was, that it should be divested of some of the rigors of the Spanish inquisition, and that the other sects should be partially tolerated. This period of their history exhibits several melancholy instances of internal commotion, attended with bloodshed, when not under immediate pressure from a foreign enemy. At times they had recourse to the appointment of a dictator, with temporary despotic powers. Simon Bolivar, the most prominent character during the later periods of the revolution, has occasionally been vested with supreme power by several of the republics. They style him the Washington of the south ; it yet remains, however, to be determined by his future conduct, to what extent, and in what respects, he resembles the great prototype.

*Policy of the United States towards them.* In every stage of this contest, the efforts of the patriots have been seconded by the ardent wishes of the American people, while the policy adopted by the government was that of a rigid neutrality. No political connections were formed with

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\* Buenos Ayres, Colombia, and Mexico, on the Atlantic ; Chili, Peru, and Bolivia, on the Pacific ; and Central America bounded on both oceans.

either belligerent; no commercial privileges accorded to one, without making them immediately common to both. The laws of the United States prohibited their citizens from joining the armies, or committing hostilities upon either. This was an extension of the principles of neutrality much beyond the customary national law of Europe, arising from the fixed determination of the governments to preserve, if possible, peace with all the world. The powers of Europe, not only permit, but encourage their subjects to enlist in the armies of foreign belligerents, and often hire out their troops for that purpose.

*American prisoners in Spain.* Notwithstanding the provisions of the American code, citizens of the United States, in considerable numbers, joined the patriots. Hopes of gain, and an expectation of acquiring fame and distinction overcame the feeble barriers of law, and led these adventurers to compromise the peace of their country, and expose themselves to every hazard. In the course of the contest, numbers of them had been taken by the royalists, conveyed to Spain, and there confined in dungeons, to await the decision of the Spanish government on their cases. The treatment to which these persons had subjected themselves, does not appear to be distinctly defined by international law. The powers of Europe have generally treated prisoners of this description with no greater severity than ordinary prisoners of war. Bonaparte, in his zeal to destroy the British naval power, decreed that all Americans found in arms on board a British ship, though by compulsion, should be put to death. It is not known, however, that this sanguinary decree was ever executed. General Jackson, carrying the principle still further, in the case of the two Englishmen, found among the Seminoles, declared them to be out laws and pirates, and put them to death. Although these were considered, not as precedents, but manifest violations of national law, yet in no case could prisoners of this description claim any immunities superior to those with whom they were associated in the war. The Spanish government considered the inhabitants of their revolted colonies in arms, as rebels, guilty of high treason, and subject to capital punishment; and adventurers of other nations, who had voluntarily joined them, having no wrongs of their own to avenge, as still more criminal. Under these circumstances, the case of the American captives in the prisons of Spain was hopeless. Having joined one of the belligerents, in violation of the laws of their own country, and hazarded its



peace, their government was not bound to interfere in their behalf. The voice of humanity, however, pleaded strongly in favor of these deluded citizens, and the American minister was directed to urge their release. The new order of things happening in Spain at this juncture, saved them. One of the first acts of the government under the cortes was to order a discharge of all prisoners confined on account of their political conduct; and in the same spirit of liberality, the Spanish minister, in answer to Mr. Forsyth's application, transmitted him an order for the release of the American captives; and the consuls, at the different ports, furnished them with the means of returning to the United States.

*Mission of Messrs. Bayard, Graham, and Forbes.* Soon after the accession of Mr. Monroe to the presidency, he commissioned Messrs. Bayard, Graham, and Forbes, three American citizens, of distinguished character and intelligence, with instructions to visit the southern republics, to express to them the cordial good feelings of their brethren of the north, and to learn their military force, strength, resources, moral and political condition, and the probability of their ultimate success. These commissioners visited the several states to which they were directed, and were cordially received, and assisted in their researches. Messrs. Bayard and Graham returned to the United States. Their report placed the question of the final emancipation of the colonies beyond a doubt. The feeble and exhausted efforts of Spain could no longer maintain the contest, with any hope of a favorable issue. The view which the commissioners gave of their state of society was more unfavorable, and rendered the question of their capacity for self-government, on the principles of republican freedom, extremely doubtful. The forms of government, however, which either chance or choice might give them, could have no effect on the question of their recognition. At what period they were to be admitted into the family of nations, as independent states, and when this could be done without departing from a neutral course, and giving just cause of offense to Spain, were questions of great delicacy. On this subject the feelings of the people and of congress were much in advance of the executive. In January, 1818, a motion was made in the house of representatives, to introduce into an appropriation bill a sum for the support of a minister at Buenos Ayres, whenever the president should deem it expedient to appoint one. This motion afforded an opportunity, which was eagerly seized upon by most of the congressional orators, for a dis-

play of eloquence on the blessings of liberty, the rights of man, the privileges of self-government, and the near approach of a political millennium, when the despotism of crowned heads should cease. After these subjects were exhausted, the manifest impropriety of making an appropriation for the support of a public functionary, before the executive had expressed any determination to appoint one, prevented the measure.

*Recognition of the southern republics.* At the first session of the 17th congress, January 30th, 1822, the house of representatives passed a resolution, requesting the president to communicate to them such information as he possessed, in relation to the political state of South America. In answer to this call, the president, on the 8th of March, transmitted a report from the secretary of state, containing the letters of Mr. Forbes, who had remained at Buenos Ayres, as agent of the American government, after the return of Messrs. Bayard and Graham, and the communications of the agents of the South American republics, to the secretary of state; from which it appeared, that their march to independence, though at times impeded by intestine divisions, and external force, had been uniformly progressive. That the whole of Spanish America, except the islands of Cuba and Porto Rico, were in the actual exercise of the powers of sovereignty. That no Spanish force, of any magnitude, existed in any of the governments, that none had been sent from Old Spain, within the last three years. That the cortes of Spain had abandoned the hope of subjugating the colonies by force, and were inviting them to unite with the mother country on terms of equality; but that the disposition of the inhabitants, as well as the interposition of the Atlantic and the Andes, forbid the expectation of such a union. The communication closed with a recommendation to acknowledge their independence, and to make provision for the support of such ministers as it might be expedient to send to the South American states. The message of the president, with the accompanying documents, were referred to the committee of foreign relations, and upon their report, the independence of Spanish America was recognized, and an appropriation of one hundred thousand dollars made to establish a diplomatic intercourse with them. These acts passed with but a single dissentient. They produced a remonstrance from the Spanish minister at Washington, representing the republicans as insurgents and rebels, in a state of anarchy, with whom all governments were prohi-

bited from holding any intercourse. Mr. Adams, in reply, in a clear and conclusive manner, proved from incontrovertible facts that they had long been in a state of actual independence; that the parent state had lost all authority over them, and their recognition could give no just cause of offense.

*Views of European governments in relation to South America.* The president had been desirous that this negotiation should be accompanied by similar measures by the European governments; and for that purpose had instructed the American envoys at those courts, to press the subject. A very different policy actuated those governments, and prevented a compliance with the wishes of the American executive. Those who had colonies of their own, from obvious motives, were hostile to the measure. They had every reason to dread the influence of the example. The American principles on which the republics of the south, as well as the north were based, to wit, that the powers of government emanate from the people, to be exercised for their good, and that rulers are mere public agents, responsible to their constituents for their conduct, are in direct hostility to the maxims of the divine right, hereditary succession, and irresponsibility of European monarchy.

*Views of Great Britain.* In England the question of Spanish American independence, balanced between different national interests. The objection, arising from the effects of their example on other colonies, was more powerful with her, than with any other; that one, arising from the consideration of its influence on legitimacy, and hereditary succession, was equally strong. British ministers were reluctant to take any measures contrary to the wishes of combined Europe. On the other hand, the independence of South America opened a new, extensive, and increasing field for British commerce and manufactures, in which she had already begun to reap a rich harvest. Her ministers ultimately took a middle course, the offspring of a compromise between the interests of the crown and the people. They made no objection, but rather encouraged their recognition by the American government, opened a commercial intercourse with them, received their agents, and treated them as friends, but refused publicly to acknowledge their independence.

The ministers of Ferdinand applied to the holy alliance, soliciting their aid in subjugating his rebellious colonies, offering extensive commercial privileges as the price of their

interference. The allied sovereigns were strongly inclined to this measure, and were deterred from it only by the avowed opposition of Great Britain and the United States. The cabinet of St. James gave them to understand, that they would not see with indifference, Southern America again brought under the dominion of Spain, by the aid of foreign power.

*President's message relating to the southern republics.* The government of the United States, it was known, had already acknowledged their independence, and would not quietly behold one half of the American continent again reduced to a colonial state. At the opening of the ensuing session of congress, the president made known to them, and to the world, in dignified and temperate language, his views on this interesting subject. In that part of the message which relates to foreign intercourse, he says, "the citizens of the United States cherish sentiments the most friendly in favor of the liberty and happiness of their fellow-men, on the other side of the Atlantic. In the wars of the European powers in matters relating to themselves, we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded, or seriously menaced, that we resent injuries or make preparation for defense.

"With the movements in this hemisphere, we are of necessity more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied powers, is essentially different, in this respect, from that of America. This difference proceeds from that which exists in their respective governments. And to the defense of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it therefore to candor, and to the amicable relations existing between the United States and those powers, to declare, that we should consider any attempt on their part, to extend their system to any portion of this hemisphere, as dangerous to our peace and safety. With existing colonies or dependencies, of any European power, we have not, and shall not interfere. But with the governments who have declared their independence, and maintained it, and whose independence we have, on great consideration, and on just principles, acknowledged, we cannot view any interposition for the purpose of oppressing

them, or controlling in any other manner their destinies, by any European power, in any other light than as a manifestation of an unfriendly disposition towards the United States. In the war between these new governments and Spain, we declared our neutrality, at the time of their recognition ; and to this we have adhered and shall continue to adhere, provided no change shall occur, which, in the judgment of the competent authorities of this government, shall make a corresponding change on the part of the United States indispensable to their security.

"The late events in Spain and Portugal show that Europe is still unsettled. Of this important fact, no stronger proof can be adduced, than that the allied powers should have thought it proper, on any principles satisfactory to themselves, to have interposed, by force, in the internal concerns of Spain. To what extent such interposition may be carried, on the same principle, is a question in which all independent powers, whose governments differ from theirs, are interested, even those most remote, and surely none more so than the United States. Our policy in regard to Europe, which was adopted in an early stage of the wars which have so long agitated that quarter of the globe, nevertheless, remains the same ; which is, not to interfere in the internal concerns of any of its powers ; to consider the government *de facto*, as the legitimate government for us ; to cultivate friendly relations with it, and to preserve those relations, by a frank, firm, and manly policy, meeting, in all instances, the just claims of every power, and submitting to injuries from none. But in regard to this continent, circumstances are eminently and conspicuously different. It is impossible that the allied powers should extend their political system to any portion of this continent, without endangering our peace and happiness ; nor can any one believe our southern brethren, if left to themselves, could adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition, in any form, with indifference. If we look to the comparative strength and resources of Spain, and those new governments, and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States, to leave the parties to themselves, in the hope that other powers will pursue the same course."

These sentiments were in unison with those of the great body of American citizens, and of the advocates of rational liberty, in every part of the world. They fell, however,

something short of the feelings of the most sanguine. They were not intended, nor did they fairly imply, an absolute pledge, that the nation would, in any event, go to war, to maintain the independence of southern America. The time, manner, and degree, of opposition to European interference, remained a subject of future consideration, unembarrassed by any engagements. From the course pursued by the holy alliance, with regard to revolutions in Europe, and the intimations they had given in relation to Spanish America, strong apprehensions were entertained, that they would unite with Spain, in subduing the republics. This gave rise to the discussion of the question, what course, in such an event, the honor and interest of the United States would require them to pursue. A successful war against the principles of free government, in the south, might lead to an attempt to accomplish the same object in the north. Fortunately, this question has been only matter of theory; the American government have never been called upon to decide it. Those states noticed these declarations with the most lively feelings of gratitude and affection. They were disposed to consider them as a pledge, that their brethren of the north would interpose with their arms, in case any European power should attempt to assist in their subjugation.

The journals in England, speaking the language of the people, noticed this message with high encomiums. "The communication of the chief office bearer of that great republic," say they, "to the legislature, at this critical period, when the ambition of kings, not satisfied with the calamity which it has occasioned in Europe, threatens to rekindle the flames of war in the western hemisphere, was looked forward to with the utmost anxiety. It is worthy of the occasion, and of the people destined to occupy so large a space in the future history of the world. Its noble and firm, yet temperate and pacific tone, seems to have excited universal satisfaction. What a contrast between the manly plainness of this state paper, and the Machiavelianism and hypocrisy of the declarations and manifestoes of the allied sovereigns. It is interesting, because it is the brief, simple, and direct exposé of a republican government, always true, plain dealing, and sincere. It is important, because, fearing nothing, it conceals nothing, and is totally divested of all that trick, artifice, and commonplace jargon, which renders the diplomacy of Europe more than nugatory."

The French presses, under the control, and speaking the language of, a despotic government, denounce the message,

as the vain-glorious boastings of a temporary officer, clothed with a little brief authority, elated with the pride of office, assuming to control the destinies of the two Americas, and dictating to the great potentates of Europe, the course they shall hold in relation to the western continent. To them it was matter of astonishment, that a chief magistrate, having no hereditary prerogatives, and tenant of office only for a short term of years, should dare express a sentiment in relation to the affairs of Spanish America, which the kings and emperors of the eastern continent were disposed to take into their keeping, at variance with their views upon the subject.

On this great question, the people of the civilized world had a united interest, and, with one voice, hailed it as an auspicious event. Where the governments emanated from the people, or partook in any considerable degree of their feelings, they acquiesced or rejoiced in the measure, in a greater or less proportion, according as popular influence more or less prevailed. In hereditary despotisms, where the interests and views of the governors and governed were at variance, and the former prevailed, a uniform and determined hostility to the measure, was always found.

*Republics recognized by Great Britain.* In the year 1824, Great Britain, slowly and cautiously following the example of the United States, recognized the republics of South America, as independent nations.

*Internal affairs of the republics.* What forms of government they may ultimately adopt, and what changes they are yet destined to experience, remains a matter of doubt and conjecture. The interval between the expulsion of a foreign enemy, and the establishment of a regular, permanent government, was found, in the instance of the United States, to be one of extreme hazard; no less so, indeed, than the darkest period of the war. Such an interval gives scope for the operation of all the turbulent and dangerous passions of man. Four years have elapsed since the last hostile Spaniard quit the southern republics; as yet, their governments are unsettled, internal discord, to a considerable extent, attended with some bloodshed, has been witnessed. No system for the regulation of the general concerns of the states, has been devised or adopted.\*

These republics have had difficulties to encounter, which were unknown to those of the north. The latter had ever

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\* 1830.

been accustomed to a municipal government, managed by their own citizens. In the North American colonies, the civil officers, with few exceptions, were native citizens, elected by the people, and, in the event of the revolution, became their leaders. From this source they derived a great fund of talent and experience, wherewith to commence a government. The reverse of this was the case in the south. They had nothing in the form of local legislatures. Their laws were all made by the council of the Indies, sanctioned by the king, and executed by a host of officers from the parent state, who universally joined the cause of their master. Hence the revolution in southern America, presented the unpromising spectacle of twenty millions of people in a state of anarchy, and destitute of the materials requisite to form a consistent political system. Their progress has hitherto been attended with much difficulty.

Whether the republican system, as understood and practiced in the United States, is the form of government best adapted to the south, under all circumstances, is a point by no means settled. That they require a head of great energy and strength, to preserve internal tranquillity, and to call forth their resources against a foreign enemy, is beyond a doubt. In theory, a republic bottomed on frequent elections, a judicious distribution of powers, a division of the legislative body into two chambers, and a strict accountability of all public functionaries, is the best. The apparently beautiful fabrics, however, built on this foundation, have been found, on a closer view, to exhibit many striking defects. The stated returns of the elections, especially of the offices of the higher grades, call into operation a host of malignant passions, which have scarcely time to subside, before a second period arrives. With few exceptions, no person having once enjoyed power, willingly gives it up. The legislator, anxious to secure a second election, will almost invariably pursue a course which, in his view, will lead to the attainment of that object, however opposed to the best interests of the nation. This anxiety to gain popularity is often the parent of injurious measures, and of long, inappropriate harangues, addressed rather to the passions of the multitude, than the sound sense of the legislative bodies where they are delivered. The important point in every government is, to select men of integrity and talent, adapted to the office they are called to execute. A popular election does by no means insure such a choice. The arts and intrigues which will be called into exercise on those oc-



casions, and of which a large portion of the community are ever the dupes, often produce the election of an aspiring candidate, destitute of every requisite qualification. A chief magistrate, holding his office for a short period, and anxious to secure a second or a third term, may be expected to adapt his measures to that object, and to fill the subordinate stations with those most likely to promote it, however deficient they may be in the more essential points of integrity and talent. Evils, of which the above are a very imperfect sketch, have been found to exist in every republic, and overthrown many. They operate in an inverse ratio to the intelligence and morals of the people. Facts strongly indicate, that the republics of southern America have not yet arrived to that stage of society, in which they can successfully meet, and overcome these evils: and history furnishes no example of a permanent republican government, under so many unpropitious circumstances. But whatever forms of government they may assume, one universal principle pervades the whole, to wit: an entire independence of Spain. The main point to which the attention of their wisest men has of late been directed, is the establishing of a general controlling power over the whole confederacy, adequate to the preservation of internal peace, and the regulation of their foreign concerns.

*Proposition for a congress at Panama.* As early as 1823, Bolivar, when acting as president of Colombia, invited the governments of Mexico, Peru, Chili, and Buenos Ayres to unite with his in forming a general congress at Panama; and in the same year, arrangements between Colombia, Mexico, and Peru, were made to effect that object. In December, 1824, the same chief, in the capacity of supreme commander of the republic of Peru, addressed a circular to all the other governments, inviting them to send delegates to the proposed congress in the fall of 1825. The invitation was accepted by all the states except Buenos Ayres.

*Invitation to the United States to send envoys.* In the spring of 1825, the ministers of Colombia and Mexico, at Washington, communicated to the American secretary of state, the wishes of their respective governments, that the United States would send a delegation to the proposed congress, and inquired whether a formal invitation to that effect would be accepted. The answer of the president was, that the United States would take no part in their war with Spain, or in deliberating on the means of its further prosecution; that he believed, however, that such a body might be

useful in settling several important questions of public law, in arranging matters of deep interest to the American continent, and in promoting a friendly intercourse between the republics of this hemisphere. The powers proposed to be represented were then advised, as a preliminary step to arrange among themselves, the nature and form of the powers to be given to their delegates, the manner of their organization, and the subjects of their deliberation: and informed, that if these points were settled in a satisfactory manner, the United States, in the opinion of the executive, ought to be represented at the proposed congress.

*Objects of the proposed congress.* The ministers, after communicating with their respective governments, stated the objects of the Panama congress to be,

1st. The consideration of matters exclusively relating to the belligerents, in which it was not expected that the United States would take any part.

2d. Matters between belligerents and neutrals, such as fixing the principles of national law, regarding their respective rights; the measures proper to be taken, to prevent further colonization on the American continent by European powers, and their interference in the existing contest.

No information was given regarding the powers with which it was intended the congress should be clothed, or the manner of their organization. The South American envoys stated in express terms, that it was not the wish nor the expectation of their governments, that the United States should depart, in the least, from their neutral policy. On receiving these assurances, the invitation was accepted, accompanied with a declaration, that the American government would take no part in the contest, or do any thing inconsistent with its amicable relations with Spain.

*Nomination of envoys.* The time proposed for the assembling of the congress at Panama, was in October, 1825. Early in the first session of the nineteenth congress, the president nominated to the senate Messrs. Anderson and Sargeant on this mission. The committee of foreign relations, to whom the nomination was referred, held the subject under consideration from the 26th of December to the 16th of January, when they reported a resolution that it was inexpedient to send ministers to Panama.

*Objections.* Their objections to the measure were, that it was a departure from the settled system of policy adopted at the commencement of the government, and invariably pursued by every successive administration, not to enter into

any alliances or engagements with any powers, which should embarrass its foreign relations, or prevent it from pursuing such a course as should seem meet on any emergency.

That there was too great an uncertainty in relation to the nature and powers of the proposed assembly; whether it was to be a diplomatic corps, clothed with powers to negotiate compacts and treaties between the respective governments, or an organized congress of representatives, whose proceedings should be regulated by a major vote, and obligatory upon their constituents. If the former, it was contended that it was altogether improper and too precipitate to make the appointment, without some assurance or expectation of a reciprocal appointment on their part with equal powers. Besides, it would be much more convenient and proper for the United States to transact their diplomatic business with the South American republics at Washington than at Panama. If the latter, this nation would not think of composing a constituent part of a legislature for South America.

That it was not expedient for this government to enter into any engagements as to the nature or extent of the opposition which they might think proper to make against the interference of European powers in the existing contest, or against their projects of further colonization on this continent.

That in relation to the destinies of Cuba and Porto Rico, which, it was said, might be a subject of deliberation, it was obviously for the interest of the United States that they should not change masters, and equally obvious that the southern republics contemplated either a union with them, or their conquest: and any discussion of those topics in an assembly where they could not be definitively settled, might occasion unfriendly feelings, and could have no beneficial result.

In the discussion of this resolution in the senate, a preliminary question presented itself; whether that body, in the exercise of their power of consenting to the nomination of an ambassador, could with propriety take into consideration the expediency of the embassy. This, it was contended, was exclusively within the province of the president, and the only question which the senate could constitutionally consider was the fitness of the nominee for the office. The president, vested with the power of regulating the foreign relations of the nation, having determined that a particular mission was necessary, it was his duty to fill the office, and con-

tinue his nominations to the senate until he found a person to whose appointment they would consent. By refusing their consent to all the nominations, the senate may indeed prevent the office from being filled, on the same principles that either house, by withholding the necessary appropriation, may prevent its being executed. But such a course would be considered rather as a violation of the constitution than a fulfilment of its powers. The senate, however, went into a lengthy discussion on the expediency of the mission, in the course of which a resolution was passed to inquire of the president whether any objection existed to the publication of the documents, and discussing the subject with open doors; to which he replied, "that his communications in this, as in all other cases on executive business, were confidential; and believing, as he did, that this established usage ought to be preserved unimpaired, he should leave it with the senate to determine whether there were any sufficient reasons for departing from it in the present instance." The resolution proposed by the committee was negatived, and the nomination confirmed by a vote of twenty-four to nineteen.

*Reasons of the president for the appointment.* In the house of representatives a call was made for the papers relating to the subject. In transmitting them, the president took occasion to explain at large his views on the subject of this mission, and the relations proper to be established between the United States and the southern republics. The principles on which this connection should be founded, were in his view, a fair and equal reciprocity in every commercial arrangement, a cordial good will, and perfect disinterestedness. His reasons for accepting the invitation he stated to be, that it would have a tendency to cherish a spirit of friendship and harmony between them and the United States, whereas a refusal would have a powerful effect to the contrary. That by it important and correct information would be early obtained of their views and proceedings, in which the United States had a deep interest. That the principles of national law, in relation to neutral rights, and other important points might and probably would be discussed, where this government would have an opportunity to enforce those for which, it had uniformly contended, and a violation of which had been so injurious to its commerce. That if any change was contemplated in relation to Cuba and Porto Rico, the United States might have the earliest opportunity to make known their views on the subject. That the

proposed congress would afford a favorable opportunity to attempt, by a general agreement among the American powers, to abolish the system of privateering, which he considered as nothing less than a licensed system of piracy, and thereby remove one of the strongest inducements to future wars, and diminish their horrors. That it would afford occasion to further the abolition of the slave trade, and to promote liberal principles on the subject of religious liberty, by stipulations that the citizens of the respective governments, resident abroad, should enjoy a perfect freedom of religious worship. That a united declaration of the whole of civilized America against the further extension of European colonization on this continent, and against any interference in the existing contest, would have a powerful effect to prevent both. The president stated that no danger could be apprehended from the measure, as the envoys would be allowed to take no part in the discussions relating to the prosecution of the war; to do nothing inconsistent with the strictest principles of neutrality; and as their powers would be only of the diplomatic kind, all their proceedings would be subject to the revision of the president and senate.

The message and accompanying documents were referred in the house to the committee of foreign relations, who, after taking an extensive view of the subject, reported that it was expedient to make the necessary appropriation. The report underwent a discussion, which occupied the house almost exclusively from the 3d to the 21st of April. This debate also proceeded upon the ground, that the house had a right, by withholding the necessary appropriation, to control the proceedings of the executive, and prevent any office from being executed; a principle calculated to destroy the independence of the executive, and throw the whole power into the hands of the legislative department. The appropriation bill passed the house of representatives, 133 to 61.

Under the restrictions with which it was proposed to send envoys to Panama; no serious evils were to be apprehended, and much good might result. The appointments would doubtless have been sanctioned, and the requisite appropriations made without any unusual delay or opposition, had it not been that the occasion afforded an opportunity to arraign the conduct of the new executive at the commencement of his administration. It was eagerly seized. In the senate, Mr. Randolph, in one of the most eccentric, incoherent, and inflammatory harangues that ever disgraced a deliberative

assembly, poured forth a torrent of reproach upon the president, his cabinet, and their supporters. On the question of assenting to the nomination of two individuals as envoys to the southern republics, the only legitimate considerations were the qualifications of the persons nominated for the office ; yet the senate sat day after day, and heard the most virulent abuse thrown on the executive, on topics no ways connected with the main question, without check. The president of the senate, whose imperious duty it was to preserve order and decorum in debate, excused himself from interfering, on the ground that his office did not authorize or require him to call a member to order. In the house, on the appropriation bill, where the only legitimate question could be, what sum was necessary to cover the expenses of the embassy, the debate, though conducted with more decorum, took the same wide range, and manifested a spirit of determined hostility on the part of the opponents against the administration.

Immediately after the passage of the appropriation bill, Mr. Anderson, then minister to Colombia, was directed to repair to Panama. On his way, he was attacked at Carthagena with a malignant fever, which proved fatal, and deprived the country of an able and faithful representative to the republics of the south.

The short time that remained after the final determination of the question, before the expected meeting of the congress, and the approach of the unhealthy season, rendered it inexpedient for Mr. Sargeant to proceed.

*Proceedings of the congress.* The representatives of Mexico, Peru, Central America, and Colombia, assembled at Panama on the 22d of June, 1826. The government of Great Britain and the Netherlands, though uninvited, sent diplomatic agents to this congress. They were not permitted to be present at their sittings, but most of the important proceedings were communicated to them. The body continued its session until the 15th of July. Their most important acts were,

A treaty of friendship, and perpetual confederation between the republics represented, to which the others were invited to accede :

A convention, fixing the quotas of the several governments towards the common defense :

An agreement to hold future meetings annually in time of war, and biennially in time of peace.

The next meeting was fixed at Tacubaya, a small village in the neighborhood of Mexico, in the month of February, 1827. Mr. Sargeant, as envoy from the United States, left Philadelphia in season to be at this meeting near the time of its commencement. After waiting some time at Mexico, and finding that the proposed congress was not likely to convene soon, if at all, he returned.

## CHAPTER XI.

Death of commodore Perry—Duel between commodores Decatur and Barron—Its occasion—Previous correspondence—Decatur slain—Proceedings of congress relating to his funeral—Duelling not allowed in the European service—Not noticed or punished in the United States—Second session of the 16th congress—Balloting for a successor to Mr. Clay—Speaker chosen—Message—Constitution of Missouri presented—Exceptionable clause—Not accepted—Proposition to reduce the civil list negatived—Report of the secretary at war on the subject of reducing the army—Plan of retaining supernumerary officers rejected—Army reduced to six thousand—Situation of the public lands—Arrears of debt for lands—Terms of selling land altered—Relief to debtors for lands—Electoral votes counted—Proceedings relating to the votes of Missouri—Result declared—Inauguration and speech of the president.

*Death of Commodore Perry.* In the year 1820, the citizens of the United States had occasion to lament the death of two of their distinguished naval commanders. Oliver H. Perry died of a fever at Trinidad, where he had been dispatched in the *Hornet*, as part of a squadron, stationed in the West Indies, for the suppression of piracy. He had been most of the time in active service, since the war, on the Mediterranean, and West India stations, and acquitted himself with honor; though no opportunities had offered for brilliant achievements. His remains were interred on the island with military honors; but afterwards removed by order of government, to Newport.

*Duel between Decatur and Barron.* Commodore Decatur was killed in a duel with Commodore Barron, on the 22d of March, 1820, at Bladensburg, near the city of Washington. Barron received a severe wound, which proved not to be mortal. Congress being in session, a motion was made to take measures for a public funeral, and to wear a badge of mourning, as is usual on occasion of the death of one of their members, but on suggestion that this could not be done without appearing to give public countenance to duelling, the motion was withdrawn. Both houses adjourned on the day of the interment, without entering on business. On the 24th, his funeral was attended by the president, heads of departments, foreign ministers, members of congress, officers of the army and navy, and a numerous con-



course of citizens, testifying their sympathy with the distressed widow and family, and their grief at the national loss. Commodore Decatur stood at the head of his profession; none of his fellow-officers had had equal opportunities of distinguishing themselves in active and hazardous enterprises. His eminent services, which had contributed in so great a degree to raise the character of the navy, were fresh in the recollection of his countrymen. His high reputation for courage was established beyond a doubt, and needed not the miserable aid of a duel, often the refuge of cowardice, to give it additional support.

*Causes of the duel.* The facts which led to this unhappy tragedy, are of a date as early as 1806. The conduct of Commodore Barron in not fighting the *Leopard*, a ship of vastly superior force, and well prepared for action, with the *Chesapeake*, when unexpectedly attacked, although the consequence must have been the immediate destruction of his ship, was universally censured, and public sentiment seemed to require a sacrifice. A court of inquiry was first held, who passed a censure upon his conduct. A court martial was then called, on which Commodore Decatur was detailed as one of the members. Having previously formed and expressed an opinion unfavorable to Barron, he declined sitting. The secretary of the navy would not excuse him, and he took his seat as a member of that court. Their decision, after an investigation of two weeks was, that the commodore was not guilty of any cowardice or want of firmness on the occasion, but was guilty of neglect of duty, and unofficer-like conduct, in not clearing his ship for action on the probability of an engagement; and sentenced him to be suspended from all command in the navy, and from all pay and emoluments, for the term of five years, from the 8th of February, 1808. This sentence was approved by the president, and carried into effect. Barron imputed the severity of this sentence, in a great measure, to the influence of Decatur. During a part of the period of his suspension, he resorted to the merchant service for support, and afterwards retired to France. The government mitigated the sentence so far as to grant half pay to his family, during his absence. When the period of his suspension expired, February 8th, 1813, the country being at war with England, he solicited employment in her service. Not being encouraged by the secretary of the navy, he remained in France until the close of the war. On his return to the United States, he again claimed his rank and employment

in the navy; and on the *Columbus*, 74, being put in commission, he considered himself entitled, from his standing in the service, to her command. Commodore Decatur, having an unfavorable opinion of his talents, opposed the designation, and as Barron supposed, was the principal cause of his exclusion. Some officious intermeddler fabricated, and reported to Barron a story, that Decatur had somewhere said, "that he could insult Barron with impunity." The latter, listening with too great readiness to this tale-bearer, commenced an angry correspondence on the subject of this report; which ended in Decatur's disavowing the use of any such expressions, at the same time justifying the course he had taken in his official capacity, in relation to Barron. The subject rested in this situation from June to October, 1819, and was supposed to be at an end; when Barron, still listening to idle reports, commenced a second correspondence, accusing Decatur of having exhibited their former letters, for purposes unfriendly to his character; and of having said that he would cheerfully meet Barron in the field, and hoped he would act like a man. These stories Barron, taking them for true without evidence or examination, affected to consider as amounting to a challenge, and called upon Decatur to make the arrangement, of time, place, and weapons. This produced a reply from Decatur, stating at length his objections to Barron as a naval officer, justifying the course which he had taken towards him, and denying that he had the remotest ground, from any rumors to which he had been listening, to apprehend that he was challenged. A correspondence of considerable length ensued, remarkable for nothing but its asperity, and want of decorum. At the close of his last letter, Decatur remarks, "that your jeopardizing your life depends on yourself and not on me, and is done with a view of fighting your character up; I shall pay no further attention to any communication you make to me, other than a direct call to the field." This was answered by the challenge direct from Barron, followed by the appointment of seconds, and the usual preliminaries of a duel, and the fatal result of the 22d of March.

This atrocious act, which deprived the country of one of its ablest naval commanders, was committed under the eye of the executive, who by virtue of his office is commander in chief of the navy, by one of his officers, without animadversion. The fact exhibited the melancholy spectacle of the supreme naval commander's suffering one of his principal officers to be murdered, for acts done in his official capacity,

by another, with impunity. The prevalence of this savage manner of settling disputes in the United States, is a subject of astonishment and regret. That it should have found its way, to so great an extent, in the army and navy, is unprecedented. In this particular, the United States, in civilization, are far behind the European governments. In modern times the practice is wholly excluded from their service. The officer who has accepted a commission under the government to fight its battles, has pledged himself; his person is no longer at his own disposal, and he cannot hazard his life in a personal quarrel, without robbing his master. It is, therefore, with the highest reason that the monarchs of Europe have entirely eradicated dueling from their military system. On most national questions relating to principles, manners, and customs, the American citizen feels proud of a comparison between his own country and Europe; but on this he must acknowledge a lamentable inferiority.

This act was committed in the immediate vicinity of the supreme national legislature, during their session, and on ground over which, for the sake of the better preservation of the public peace, they exercise peculiar and exclusive legislation. The duelist, who slays his fellow, is guilty of murder in the first degree, and of the most aggravated nature, and all concerned, are guilty as accessories. Yet of the hundreds of murders of this description in the United States, there never has been a conviction, and execution of the murderer. In the present instance, this atrocious homicide was suffered to pass unnoticed, as well by the supreme executive, as by the civil authorities of the district.

*Second session of the 16th congress.* Agreeable to a law of the last session, the 16th congress commenced its second term on the 13th of November, 1820. Mr. Clay, being unable to attend at the opening of the session, addressed a letter to the house, resigning the chair. A balloting to supply the vacancy immediately commenced, which continued three days; and on the 22d ballot, Mr. Taylor, of New York, was chosen. The opposing candidates were Mr. Lowndes, of South Carolina, and General Smith, of Maryland. The president's message, which was communicated immediately on the organization of the house, was, as usual, a plain business-like state paper, giving congress such information in relation to the foreign and domestic concerns of the United States, and the situation of the treasury, as was necessary to guide their deliberations. Being a true, it contained a very pleasing picture of the affairs of the nation. During

the six months vacation, between the first and second terms of the 16th congress, the nation had remained in a tranquil and prosperous state. Very few new subjects of legislation had occurred, and congress might have found it difficult to employ the whole time, which the early commencement of the session gave them, for the public good, had not the Missouri subject presented itself again in a new and unexpected shape.

*Debate respecting Missouri.* Two senators and one representative from that state, presented a constitution, formed the preceding summer, by a convention of delegates, in pursuance, as they claimed, of the act of the last session authorizing the measure, and demanded its acceptance, and their seats in the respective houses. One of the articles of that instrument, made it the duty of the legislature to pass laws, prohibiting free negroes and mulattoes from settling or residing in the state. This, it was contended, was in direct violation of that article in the federal constitution, which provides, that "the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." In the course of the discussion, it was admitted that the two provisions were inconsistent with each other. The committee of the house of representatives, to whom the subject was referred, a majority of whom were from the slave-holding states, going upon the ground that the objectionable clause was unconstitutional, and of course of no validity, reported that it was advisable to admit the state into the union, leaving the question as to the exclusion of the free people of color coming from other states, to be settled by the judicial tribunals whenever it should occur. The acceptance of the report was opposed on the ground of the impropriety of admitting a state into the union, with a constitution not conformable to the principles of the general government, and depriving a portion of the citizens of other states of their equal privileges of emigrating to, and settling in the new state. The relief proposed, it was said, would be inadequate, expensive, and ineffectual. It would be unwise, and embarrassing to legislate in such manner as should involve a portion of the emigrants in lawsuits, the expenses of which they would be little able to sustain. The United States were owners of large portions of land in the new state, which it was desirous should be open to purchasers of all descriptions. Considerations of this nature induced a rejection of the report. In the senate, a resolution passed admitting the new state into the union, with a pro-

viso that nothing therein contained should be construed to give the assent of congress to any provision in the constitution, if any such there be which contravenes any clause in the constitution of the United States. This resolution was negatived in the house of representatives, and the subject referred to a select committee of thirteen. They reported a resolution admitting Missouri into the union upon the fundamental condition, that the state should never pass any law preventing any descriptions of persons, who then were, or thereafter might be, citizens of any state in the union, from coming to, or settling in that state, and provided its legislature should declare their assent to the proposed condition, and transmit the same to the president, by the fourth Monday of the succeeding November; and this being announced by proclamation of the president, the admission of the new state was to be considered as complete. This resolution passed both houses, was complied with on the part of Missouri, and she became a member of the union on the fourth Monday of November, 1821.

The discussion of this question brought up the same sectional divisions in congress, as appeared on the original Missouri question the last session; but was conducted with much less asperity. The description of inhabitants who were attempted to be excluded by the constitution of Missouri, were considered by the citizens of the slave-holding states as of a very dangerous character; and more so in those sections of the country where the number of slaves approached to an equality with that of free citizens. As a general description of character, with many exceptions indeed, the free people of color, were considered as idle, profligate, abandoned to vice, and disposed to encourage slaves in disobedience and desertion. It was deemed an important object to prevent the increase of this species of inhabitants, and their congregating in the slave-holding states.

*Reduction of salaries proposed.* A strenuous but ineffectual attempt was made this session, to reduce the compensation of the legislative and executive departments of government. In every discussion of this subject, the ascent has been found much more practicable, than the descent. At periods when the means of living are high, pressing reasons are at hand for the increase of salaries. On a reduction of prices, and the increase of the value of money, the reasons for the reduction of salaries, are equally obvious, though much less operative. It appeared in the course of the debate, that

when the present rates of compensation were fixed, the means of living were much higher than at present; and that the revenue was then adequate to meet the expenditure. Now it fell considerably short, and a resort to loans had become necessary. But however urgent the reasons, a reduction of the civil list could not be accomplished.

*Reduction of the army.* The object of lessening the public expenditure, and bringing it more nearly within the compass of the revenue, was effected, by an important reduction of the military establishment. By a resolution of the house of representatives, at the last session, the secretary at war was directed to report a plan for the reduction of the army to six thousand. His report, in pursuance of this resolution, recommended a reduction of the number of privates in the companies and regiments of which the army was composed, instead of reducing the number of regiments. The reasons assigned by the secretary in favor of this plan, were, that in case of war, the government would have an experienced corps of officers in service, on whom they could depend; that by filling up the regiments, the recruits would be distributed in small numbers, among experienced soldiers, and under the command of officers acquainted with their duty, and would be immediately fitted for active service. In the other mode, whenever it became necessary to augment the army, it must be done by raising new regiments, and appointing a new corps of officers to their command. In the first stages of a war, new levies of this description, the secretary remarked, would be of little service. He then went into a comparative estimate of the expenses of the different modes, making the peace establishment, on the principle of retaining the whole number of officers, something more expensive; but stating that, in case of a war, it would be the most economical and efficient. The plan of the secretary did not, however, meet the views of congress. The prospect of any future war, other than occasional Indian hostilities, was considered too remote to render it necessary to maintain a corps of supernumerary officers, to meet such a contingency. It was said, that an army of officers, with high pay and emoluments, and without employment, would be a mighty engine of executive influence. A judicious distribution of such a corps in the several states, with proper instructions, might have a controlling effect on the elections; and in the hands of an ambitious military character, might seal the destinies of the country. The immediate objects of the United States military establishment, being the preservation of the fortifi-

cations on the sea board, and the defense of the frontier from Indian depredations, fighting men were considered of more consequence, than supernumerary officers : and the plan of having full regiments, and no more officers than were requisite to command them, was adopted.

*Land debtors.* In compliance with a resolution of the senate, the secretary of the treasury presented to that body, a detailed statement of the situation of the public lands, or national domain, from the close of the revolutionary war, to the commencement of the year 1820 ; from which it appeared, without regarding fractional numbers, that one hundred and ninety-one millions of acres had been purchased of the Indians, for two millions and a half of dollars, or about one cent and a third per acre. That the moneys expended in surveying and locating, a little exceeded four millions : that seventy millions had been surveyed, and twenty millions sold, for forty-five millions of dollars, or an average of two dollars and a quarter per acre ; one half of which sum had been paid into the treasury, the other half remained due from the purchasers, for which the lands were pledged. The report exhibited a debt due, principally from settlers on the public lands, of upwards of twenty-two millions of dollars, and their inability to pay, according to the terms of the purchase. To prevent the further accumulation of debts of this description, a law had been passed at the last session, authorizing the sale of lands for cash only, and at the reduced price of a dollar and twenty-five cents per acre. This act manifestly bore hard upon former purchasers, who were still debtors for their lands. Without any means of payment but a resale, they must sell at a great sacrifice, as the government prices would necessarily regulate theirs. Many had purchased when lands and their produce were high, and the rage for emigration great, calculating upon a resale at a profit. Persons of this description, lost their all in the speculation. The disposition to emigrate had now subsided, and traffic in new lands had become hazardous. It was obvious that a liberal relief must be granted to this class of government debtors, or a numerous and valuable portion of settlers lose their improvements, and the advances they had already made upon their lands, and the settlement of the vacant territory, always an important object with the government, be greatly impeded. After a variety of propositions, having for their object some relief to this class of citizens, an act was

passed, allowing any purchaser to relinquish such portion of his land, remaining unpaid for, as he chose, at the purchase price, and retain the residue ; or retain the whole, and pay for it in hand, at a discount of twenty-five per cent, or pay the contract price at future instalments.

*Convention for counting the electoral votes.* In pursuance of the report of a joint committee, the two houses met in convention on the 14th of February, to count the votes and declare the election of a president and vice president of the United States for the presidential term commencing the 4th of March, 1821. On this occasion the Missouri question again presented itself in a new form. The people of that territory, having formed a constitution, as they claimed, not inconsistent with that of the United States, considered themselves as members of the union, chose their electors, and sent on their votes for president and vice president. It was known that their reception or rejection would not vary the result ; it was therefore rather a matter of etiquette, than of any practical importance how they should be disposed of. The joint committee had endeavored to remove any difficulty on this subject by providing in their report, that the presiding officer should declare how the votes would stand, if those of Missouri were counted, and how if they were not, and to declare who were elected. The counting proceeded without interruption until it came to the votes of Missouri, when a member of the house of representatives objected to the counting of those votes, on the ground that there was no such state. The constitution directs that the votes shall be opened by the president of the senate, and counted in the presence of both houses ; but makes no provision how or by whom the question on the reception of a contested vote shall be determined. As in the present case the result of the election did not depend on the decision of this question, the omission occasioned no great embarrassment. The senate withdrew ; and the speaker having resumed the chair, a motion was submitted by a member that Missouri is one of the states of the union, and that her votes ought to be received and counted. After a debate of considerable length, the house, without coming to a decision on the political standing of Missouri, ordered the motion to lie on the table, and a message to be sent to the senate that they were ready to finish the business of counting the votes. The two houses again met in convention, and the president of the senate declared the result to be two hundred and thirty one votes



including those of Missouri, for James Monroe, president, and two hundred and eighteen for Daniel D. Tompkins, vice president, and declared them duly elected.

Mr. Monroe's administration during his first presidential term, abating something for the disappointment of expectants of office, had given universal satisfaction. No organized opposition had arisen; the people of the United States seemed to take a pleasure and pride in rallying round the standard of their government. The bold and dignified manner in which he expressed the national sentiment on the subject of European interference in the affairs of America, gained him high applause. No disputes of any magnitude had arisen with any nation except Spain, and those had been brought to a termination highly honorable and advantageous to the United States. The pecuniary embarrassments consequent on the conclusion of the late war had in a great measure ceased, and the various kinds of business had resumed a regular course and fallen into their wonted channels. The progress of improvement in wealth, industry, and enterprise, had been rapid. Four new states had been added to the union. Indian hostilities and depredations had been punished in a manner calculated to prevent their repetition. Settlements on the government lands had rapidly increased: and sixty-seven millions of the public debt extinguished. It being a generally acknowledged principle in the American government, from which there had been but one departure; that the same person should hold the office of president for two successive terms. Mr. Monroe's re-election was a matter of course, and, with the exception of two votes, unanimous.

On the fourth of March the president elect was installed into office with the ceremonies usual on such occasions. All that the constitution requires, is, that he should take the official oath at the hands of some proper magistrate; custom had entitled the people, who might choose to witness this ceremony, to expect an inaugural speech.

When a new president is elected, this is considered as a favorable opportunity for an exposition of the principles of his administration, and has been uniformly improved for that purpose. But this is not at all requisite or proper where there is only a re-election, unless a change of measures is contemplated. This custom in the present instance imposed an arduous task on the president elect. On his first elevation to office he had fully explained his views on the subject of conducting the national concerns; the uniform

tenor of his conduct had supported them. He contemplated no change of measures. The prominent facts of his past administration were well known; it was not proper for him to recapitulate or eulogize them. Being more a man of business than an orator, he was not calculated to figure on this occasion before a popular assembly. Not however to disappoint the expectations of a brilliant audience, he made an address detailing in a plain, unostentatious manner, the principal incidents of his administration, in relation to the measures of defence, negotiations with foreign powers, and the progress of improvement; all of which had been previously communicated to congress, and were familiar to his audience. It was a valuable state paper, developing the strength, resources, and prospects of the country, better adapted to the hall of a legislative assembly, than to a promiscuous audience assembled to witness an inauguration.

## CHAPTER XII.

Forty-fifth anniversary of American independence—Mr. Adams' address on the occasion—Death of Napoleon—Diplomatic discussions with France, on the Louisiana treaty, on landing goods on the St. Mary's—General Jackson appointed governor of the Floridas—Takes possession—Treatment of governors Calava and Coppinger—Dispute with Judge Fromentin on the civil privileges of the Floridians—Banishment of Spanish officers—General Jackson's reasons for his conduct—Plea of necessity—Manner in which it is considered—General law passed for the government of the Floridas—Principles adopted by the United States, in relation to colonial acquisitions compared with the European system.

*Forty-fifth anniversary.* The 45th anniversary of American independence, 4th of July, 1821, was celebrated with more than usual éclat. The birth-day of the nation has been noticed with more or less celebrity in the principal cities and villages in the United States from the first. This has had a happy tendency to cherish a national spirit, and has afforded an opportunity for successive orators, patriots, and politicians, to call to mind the daring deeds of their fathers, to notice with a becoming pride the progress of American principles, first brought into view by the revolution, and point to the means of perpetuating the greatness and glory of America. The continued prosperity of the country, the acquisition of the Floridas, the establishment of the boundaries beyond the Mississippi, which gave to the United States a territory commensurate to their most enlarged desires, the submission of the Indian tribes, the almost unexampled unanimity of the presidential election, and the progressive extinction of party spirit, were subjects of universal congratulation.

*Mr. Adams' address.* The citizens of Washington were entertained with an address from the secretary of state, who brought forth from the archives of his office and read to the assembly, the original declaration of independence. The facts which led to the birth of the nation, and conducted it to its present high rank, though familiar, would well bear repeating on this occasion; and the service was performed in an appropriate manner. Tasks of this description have usually been assigned to persons holding less dignified stations. It was unusual to see the second officer in the government acting the orator on this holiday occasion; the

performance, however, proved the speaker to be the orator, and scholar, as well as the statesman, and ranked among the first which the day produced.

*Death of Bonaparte.* This year was distinguished by the death of one of the greatest men of modern times. Napoleon Bonaparte died at St. Helena, May 5th, 1821. The disorder which ended his days was a cancer on the liver, occasioned no doubt by the climate, and the gloom produced by his misfortunes. The severity with which he was treated, and the strict watch which it was deemed necessary to prevent his escape, were sources of his constant complaint. The more candid of his friends imputed his death to this cause; others suggested, but without foundation, that his keepers resorted to more efficacious means to hasten the event. His death relieved England from the expense of a million sterling annually, and the hereditary monarchs of Europe from any immediate apprehensions of another encroachment on their dynasties. It also enabled the Americans to enjoy the privilege of touching at St. Helena for refreshments in their East India trade, which was secured to them by the treaty of Ghent, but suspended during Bonaparte's residence on the island.

*Disputes with France.* A diplomatic controversy of some asperity arose between the French and American governments, in relation to the construction of the 8th article of the Louisiana treaty. By the 7th it was provided that, for the term of twelve years, the vessels of France and Spain should be admitted into the ports of the ceded territory, without paying any higher impost and tonnage duties than were paid by vessels of the United States; and the 8th stipulated that after the expiration of that period, the vessels of France should be admitted upon the footing of the most favored nation. The navigation act of 1820 had made a proposition to all nations, to admit their vessels into the ports of the United States, when laden with the productions of the country to which they belonged, without paying any other duties, than such as were payable by American vessels, provided the favor should be reciprocated. This proposition had been accepted by Great Britain, in relation to her European dominions, and most of the continental powers, except France—she claimed the privilege of being placed on this footing, in regard to the ports of Louisiana, without rendering the equivalent. This was denied by the American government, and a commercial warfare of countervailing

and prohibiting duties commenced, which for a time, nearly suspended the direct intercourse between the two nations.

About the same period, though unconnected with this claim, another subject of diplomatic discussion arose between the two governments. During the time which intervened between the ratification of the Florida treaty and the occupation of the territory by the government of the United States, some French adventurers, for the purpose of evading the revenue laws, had sent several vessels, laden with merchandize, adapted to the American markets, up the St. Mary's, the boundary between the United States and the ceded territory, and landed them in an uninhabited region on the Florida side, with an evident intention of smuggling them into the United States. One of the vessels was seized, and the goods and the other vessels removed from the river by direction of the president. A serious attempt was made on the part of France, to treat this as a violation of the rights of Frenchmen. The minister of that power remonstrated against the proceeding, and claimed satisfaction for his countrymen. After a discussion of some length, the claims were abandoned, and a commercial convention formed on terms of reciprocity.

*Possession of the Floridas.* In pursuance of a law passed at the close of the last session of congress, providing for the temporary government of the Floridas, according to the laws then existing in those provinces, and authorizing the president to take possession, on the 7th of March he appointed General Jackson governor of the territory, and vested him with the powers formerly exercised by the Spanish governors. Elijeus Fromentin was appointed chief justice. The powers vested in the governor, were, from the necessity of the case, congress not having had time to frame a system of laws for the territory, discretionary and undefined. The Spanish authorities reluctantly yielded their respective commands, on the 22d of August, the last day allowed by the treaty for that purpose, manifesting a disposition to embarrass the operations of the new government, as much as lay in their power.

*Conduct of the Spanish officers.* By the terms of the treaty, all the archives and public papers were to be given up with the province. Four documents relating to the rights of property, in West Florida, were withheld by Governor Cavalla, claiming that they did not come within the purview of the treaty. After a specific demand, an armed force was sent to seize the papers, and bring Don Cavalla

before Governor Jackson, to answer for a contempt of his authority. On his persisting in a refusal, the papers were seized, Cavalla taken out of bed, carried to the governor's quarters, and ordered to prison. He immediately applied to Judge Fromentin, and obtained a writ of habeas corpus, for his release. This, the governor did not suffer to be executed, until Cavalla's papers had been examined, the requisite ones secured, and the prisoner discharged. This proceeding led to a warm altercation between the governor and judge, regarding their respective powers; the former claiming, that by the act of congress relating to the occupation of the Floridas, the Spanish laws were to be in force until provision should be made for the extension of the American code into the territory; and that the habeas corpus was a process unknown to the Spanish jurisprudence, and could not be there executed, until provision was made by act of congress, for that purpose. The judge, on the contrary, claimed that by the treaty of cession, the inhabitants of the territory became American citizens, and entitled to their privileges as such, one of the most important of which was relief from illegal imprisonment, by this process; that this was a matter of common right not dependent upon particular statutes, and extended to all persons on American territory.

A controversy, similar in principle to that with Cavalla, took place with Don Joseph Coppinger, governor of East Florida, in relation to the archives of that province, and terminated in the same summary manner. On the second of October, Mr. Worthington, the secretary of East Florida, who had been commissioned by General Jackson, to act as governor in his absence, finding that some papers belonging to that province were about to be sent to the Havana, under the direction of his superior, caused them to be seized and secured. The dilatory proceedings, and troublesome character of the Spaniards, who had any thing to do with the transfer of the government, occasioned much difficulty to the American authorities.

*Banishment of Spanish officers.* The subject of Cavalla's withholding the papers, and General Jackson's proceedings in obtaining them, was matter of discussion in the Floridian, a newspaper published at Pensacola. Seven of Don Cavalla's officers who had remained in Florida in the capacity of private citizens, after its cession, published a statement contradicting some facts which had been published under the direction of Governor Jackson on the occasion, and containing, as he apprehended, some disrespect-

ful expressions, and sentiments calculated to excite in the Floridians discontent with his government. This publication was answered by a proclamation from the governor, ordering them to quit the territory in five days.

For the purposes of administering justice, the territory was divided into two counties, without regard to the original division of East and West Florida; the country west of the Sawanay river constituted one county, by the name of Escambia; and the territory east of that river another, denominated the county of St. Johns.

*Different views of General Jackson's conduct.* The governor's powers terminated according to the terms of his commission at the rising of congress in 1822; and he declined a reappointment. With the expiration of his commission as governor of the Floridas, the general ceased to be an officer of the civil executive department. Concerning his conduct as a general in the army, and as civil and military governor of the Floridas, his fellow-citizens have entertained various and contradictory opinions. Little consequence would have been attached to them, and their discussion long since subsided, had not subsequent events placed them in a prominent view. For two successive terms he has been brought forward as a candidate for the presidency; and his conduct in those respects almost solely relied on to support his claim. It is impossible for the American people to look at it without seeing several instances of a palpable violation of their constitution. The only excuse is the plea of necessity. How far this ought to avail him is a question on which the people entertain very different sentiments. The general himself seems to have placed his defense on this ground, when he says, "that the powers with which he was clothed were such as no one under a republic ought to possess, and such as he trusted would never again be given to any man; but as he held those powers under an act of congress, and a commission from the president, he should exercise them according to the best of his abilities, whatever personal responsibilities he might incur. It had been his fortune," he states "on other occasions, as a public servant, to be in places of great personal responsibility, but he never shrunk from what he deemed to be a discharge of his duty, from any apprehension of consequences." The plea of necessity was admitted in its fullest extent by one portion of his fellow-citizens, who admired, and in the present instance, with a kind of adoration, applauded, that bold and daring course, which on great emergencies overleaps con-

stitutional restraints, and placing what is deemed to be the public safety in view, proceeds steadily to the object, trusting to events to justify the conduct. On the other hand, most public functionaries have considered themselves bound by the constitution, and laws of the land, and the orders of their superiors under whom they acted; and the plea of necessity has been reprobated as the tyrant's plea, as the demon, at whose shrine civil liberty has been sacrificed, and as a pretense bounded by no limits but the will of him who shields himself under it. In a subordinate officer, whose conduct is subject to the strict watch and control of a superior, the admission of this plea may do less harm. In a chief, holding the national destinies in his hands, it is hazardous in the extreme.

*Act for the government of Florida.* At the succeeding session of congress, an act was passed, providing a territorial government for the Floridas, on the principles of other governments of that description in the United States. A governor, secretary, judges, marshal, and the requisite revenue officers, were to be appointed by the president, with the consent of the senate. A legislative council was to be chosen by the people in the districts, in proportion to their population. The governor and legislative council to have the power of making laws for the territory, subject to be repealed by the national legislature. One delegate was to be chosen from the territory to congress, with power to sit and debate, but not to vote in the house of representatives. The treaty provided, that the inhabitants of the territory should be admitted into the union on equal terms with the original states, whenever their situation, and the number and character of their population would permit.

*American colonial system compared with the European.* The American colonization system has been conducted upon principles essentially different from the European. They have been unambitious of acquiring territory, other than that which was adjacent to them, and which they deemed necessary for their security. None has been obtained by any other means than fair purchase; and when acquired, it has been placed on an equal footing with the original domain. No extraordinary duties, restrictions, or embarrassments have been laid upon the commerce of its citizens. Their productions are free to be exported to any part of the world, where a market can be found. This liberal system induced large emigrations from the old states; and the newly acquired territory, soon amalgamated with the



country to which it was attached. It superseded the use of a military force, other than what was necessary to protect it from Indian incursions.

On the other hand, European nations generally acquired their colonial possessions by conquest. They considered the territory and inhabitants as property, subject to be controlled and disposed of, for the exclusive benefit of the parent state. All their supplies, unless by special favor, were to be derived from that source, and their productions must go in the same channel. Their trade was regulated, solely with a view to the benefit of the mother country, whose inhabitants, on removing to the colony, lost a portion of their civil and commercial privileges. Little or no intercourse was allowed them with foreigners; and in many instances, they were prohibited from raising or manufacturing for themselves, such articles as it was convenient for the merchant at home to furnish. They had no voice in the government of the parent state, and could only make known their wants and grievances by humble petition. Laws were made for them with little knowledge of their circumstances, and ill adapted to their exigencies. Numerous and burdensome offices were created, and filled with persons sent into the colonies, to enrich themselves, by impositions on the people they were sent out to govern. Such a system rendered a large military force necessary to support the authority of the parent country, in the colonies; and led to insurrection, and revolt, whenever the weakness or distraction of the government at home, afforded a prospect of success.

## CHAPTER XIII.

First meeting of the 17th congress—Choice of speaker—Message—Bankrupt bill, discussion of it—Fourth census—Bill regulating the apportionment of representatives—Arguments for and against a large representation—Result—British colonial trade—Election of Mr. Coulson of Maryland determined by lot—Report of committee thereon—Death of General Pinckney—Cumberland road—President's objections to the bill, providing for its repairs—Appointment of commissioners under the Florida treaty—Decision of the executive on the Spanish contract claims—Discussion with Russia, on the subject of the northwest coast—Russian and American claim stated—Adjustment of the dispute—Controversy with Great Britain relating to deported slaves—Referred to the emperor of Russia—His decision—Ukase of the emperor against freemasons—Decoudray's expedition against Porto Rico—Second session of the 17th congress—Message—Prosperous state of the country—Payment of the vice president's salary suspended—Settlement of his accounts.

*Meeting of congress.* The seventeenth congress commenced its first session on the third of December, A. D. 1821. On the twelfth ballot, on the second day of the session, Philip P. Barbour, of Virginia, was chosen speaker. The opposing candidates were Mr. Taylor of New York the speaker of the last house, Mr. Smith, of Maryland, and the two members from Delaware, Mr. Rodney, and Mr. M'Lane. On the fifth, the president transmitted his message, containing much in detail, a correct view of the foreign and domestic concerns of the nation.

*Bankrupt bill.* One of the most interesting subjects of discussion this term, was a bankrupt bill. In execution of the powers given by the constitution, "to establish uniform laws on the subject of bankruptcies," the sixth congress, in the year 1800, passed a law embracing most of the principles of the English system. This act was limited in its duration, to the term of five years. At the succeeding congress, parties were changed; and it became fashionable to undo what their predecessors had done. In the execution of the act, in most cases, a large portion of the bankrupt's estate was consumed in the settlement. The commissioners and assignee became principal heirs to the estate of the bankrupt, and were first to be paid out of its avails. The law became unpopular, and was repealed in 1803. In seven-

ral states bankrupt laws were afterwards passed, the general provisions of which were, that upon a process instituted by the debtor, on his delivering up his property to assignees for the benefit of his creditors, and obtaining the assent of a portion of them to his discharge, he should be exempted from his debts, as well those where his creditors had assented, as where they had not. This process, being at the instance of the debtors, was never resorted to, until his property was exhausted, and scarcely in any instance availed anything to the creditor. In other states insolvent laws were adopted, similar in their provisions to state bankrupt laws, except that they operated to discharge only the body of the debtor from imprisonment; leaving his future acquisitions liable for his debts. In several cases determined before the supreme court, state bankrupt laws were adjudged to be repugnant to that clause in the constitution which provided, that no state should pass any law, which impaired the obligation of contracts. State insolvent laws, which exonerated the body only, were deemed to be valid.

The committee on the judiciary in the house of representatives, early in the session, reported a bankrupt bill, embracing most of the principles of the English system, and the act of 1800. The bill extended to merchants only, and provided that, upon the bankrupt's having done certain acts indicating a state of insolvency, his creditors, to a certain amount, might institute process, by means of which all his property, with the exception of a small allowance, was to be vested in assignees for the benefit of his creditors, and after paying the expenses, and certain privileged debts in full, be distributed to them in proportion to their demands as allowed by commissioners. All proceedings of the bankrupt, transferring his property after the act of bankruptcy committed on which the petition was founded, were declared void. On a fair and honorable disclosure, the bankrupt, with the consent of a certain portion of his creditors, was to be discharged from all debts owing at the time of the act of bankruptcy committed.

*Arguments in favor of it.* The chairman of the judiciary committee, in an able and lucid argument in support of the bill, evinced from historical facts, that the most commercial nations of Europe had for a long time found that a system of bankrupt laws were a necessary part of the commercial code. At an early period England adopted it; and France, Spain, and Holland, at different times followed the example.

In the various revolutions which these governments had undergone, the bankrupt laws had been preserved entire. Hence he inferred their necessity among a commercial people. The experience of other nations on subjects of this nature was the surest guide.

From the facility with which a fictitious capital might be obtained, from a spirit of adventurous overtrading, from the excessive importations, and the changes in the commercial system consequent on the peace, and a variety of other causes, the chairman stated, that there were now more insolvent merchants in the United States than at any former period. The course usually adopted by the trader, when finding himself insolvent, he considered as dishonest, injurious to the creditor, and of no avail to the bankrupt. This was to pay in full certain creditors who stood in the light of endorsers and loaners of money, together with some particular friends and connections, and leave the others without satisfaction, and without remedy, the bankrupt remaining subject to all his unpaid debts. The principle of preferring endorsers and money-lenders who furnished the adventurer with a fictitious capital, he considered unjust in itself, impolitic, and injurious to the interests of commerce. It enabled a person without property to obtain a false credit, and engage in hazardous speculations, to the ultimate injury of himself and the community.

The practice of holding an honest insolvent always subject to a load of debts, which it was utterly out of his power to discharge, he considered as of no benefit to the creditor, as operating to render the bankrupt and his family a burden on their friends or the public; when if relieved by a judicious bankrupt law, he might resume business on a more prudent scale, and become a useful member of society. These, and a variety of other considerations in support of the bill, were enforced with great ability. The argument was rather weakened than otherwise by an eloquent appeal to the feelings of humanity in favor of the unfortunate bankrupt and his family, and a rhapsody on the blessings of the American government, applicable to any other subject rather than a bankrupt bill. For this, however, the eloquent speaker found an apology in the frequent practice of making harangues for the galleries and newspapers, rather than the grave legislatures to whom they are addressed.

*Against it.* The opponents of the bill contended that its principle feature, that which went to discharge the bankrupt

from his debts, without the consent of every creditor, was unconstitutional. That it impaired the obligation of contracts, in as much as it operated to discharge them without a performance. That congress possessed no powers but what were delegated to them by the constitution. That the power in question was not necessarily embraced in the power to make bankrupt laws; and not being expressly given, no restrictive terms were necessary to show that they did not possess it. On the other hand, the state legislatures, possessing all power not delegated to the general government, a restrictive clause was necessary to prevent them from passing laws impairing the obligation of contracts.

Commercial intercourse, they said, was based upon the principle of exchanging a commodity which the possessor does not need, for one which he deems of more use to him. The equivalent either passes at the same time, or an assurance given that it shall be delivered at a future day. The latter is much the most frequent; it is the foundation of all credit, and the principle upon which the great mass of commercial business is transacted. It is infinitely diversified, adapting itself to the situation of each community. It is the great business of municipal legislation, to enforce these assurances or contracts. In a country so extensive as the United States, with a population so varied in their customs, occupations, and pursuits, it was impossible, they said, to frame a bankrupt system, going to discharge a person from his contract without a performance, which should have an equal operation on all the parts of this great and diversified community. It was a subject more properly left to state legislatures, better acquainted with the circumstances and wants of their constituents.

But the opposers of the bill relied principally on the inconveniences, and expenses which were found to attend the bankrupt law of 1800; and the great difficulties which the experience of other countries had found to be attached to the system. They stated that in 1818, a committee of the house of commons, of Great Britain, were appointed to take into consideration their bankrupt laws, and their operation upon the community. That from the testimony taken before this committee, much of which was quoted by the speakers, it was the opinion of many eminent jurists and merchants, that the abuses which attended the execution of these laws were such, that they had better be repealed. The opinion of Lord Chancellor Eldon, whose official station gave him more opportunities to know their operation than

any other man, was quoted, where he says, "the abuse of the bankrupt laws is a disgrace to the country, and it would be better at once to repeal all the statutes, than to suffer them to be applied to such purposes. As they are frequently conducted in this country, they are little more than stock in trade for the commissioners, assignees, and solicitors."

The powers given by the bill to commissioners, to send their officers into all parts of the union to seize, and bring before them the person of the bankrupt, and to break open his houses, stores, desks, and trunks, they considered, as liable to great abuse, and of a most dangerous character. The law would induce adventurers to contract debts, without regard to the means of payment, to the great injury of the regular commerce of the country; would increase litigation by the number of courts and commissioners to which it would give rise, and the conflicting decisions which were to be expected. It would encourage the bringing forward of fictitious claims, supported by fraud and perjury, and while these were contesting in their various stages, the assignees would have opportunities to speculate upon, and waste the property committed to their care. This bill afforded a copious subject of discussion, and display of legal talent, from the middle of January, to the 12th of March, when it was negatived, ayes seventy-two, noes ninety-nine.

*Apportionment of representatives.* The fourth census being completed, and returned to congress, it appeared that the whole number of inhabitants in the United States, on the 1st Monday in August, 1820, was, 9,625,734, of whom 1,531,436, were slaves; 223,398, free people of color, and 7,854,269, white citizens.

The apportionment of representatives, according to this census, became a subject of much interest. Two principal objects were to be regarded; one that the representatives should be sufficiently numerous to bring into congress the feelings and interests of every portion of the union; the other, that it should not be so large and unwieldy as to impede the judicious and correct discharge of the duties of legislation. A third object of minor consequence, was to adopt such a ratio as would leave the least fractional parts in the several states, which of course could not be included in the apportionment. A fourth consideration was, the economy of time and money, which would be the result of a small representation. Uniform experience on the subject of legislation has evinced, that after a given number, and that not a very large one, such as would be sufficient to en-

sure a due degree of information and talent in the representation; the correctness, intelligence, and dispatch, with which business is done, is in an inverse proportion to the number of representatives. This is peculiarly the case in the American congress. On that great national theatre, members who possess, or imagine themselves to possess the powers of eloquence, have a laudable ambition to display their talents, and bring them to the best market. All of that class must be heard on every important topic. Hence frequent and long speeches after the subject is exhausted, and the opinion of every member fixed. The more numerous the body, the more liable to be influenced by popular leaders, the less individual responsibility, and the less careful and critical examination of the subjects on which they legislate, is to be expected. At the same time a vast extent of territory, and a rapidly increasing population, require a numerous representation to bring into congress the necessary intelligence in relation to all parts of the union. Different numbers were proposed, varying from thirty-five to seventy thousand, as the ratio for one representative. The number ultimately agreed on was forty thousand, without regarding the fractional numbers in each state, giving to the house of representatives two hundred and thirteen members, after the 3d of March, 1823.

*British colonial trade.* Repeated attempts had been made without success to regulate by treaty the intercourse between the United States and the British possessions in America. The trade between the two countries, as it related to the British, European, and East India dominions, was regulated by convention on liberal and reciprocal terms, to their mutual advantage. As it respected her American possessions, Great Britain strictly adhered to her colonial system, admitting no intercourse with them in American vessels, and allowing no articles to be furnished by foreigners, which she could furnish herself. This produced correspondent restrictions on the part of the United States, by which their intercourse in British bottoms was prohibited. These embarrassments caused an indirect trade, by which American produce was shipped to the Swedish and Danish islands, in American bottoms, where they found the produce of the British islands brought there for the United States markets. The double freight and insurance, and increased expenses of this circuitous trade enhanced the price of the articles, and ultimately fell on the consumer. Petitions from the chamber of commerce in Baltimore, and a respectable number of citizens of South Carolina, praying for a re-

peal of the laws restricting this intercourse, were presented to congress at this session. The manifest object of these laws, was to protect and encourage American navigation, and counteract the British colonial policy. On this subject, a sectional difference of interest became apparent. The south possessing great staples, and few vessels, felt little interest in the question, who should be the carriers of their produce, and the importers of their foreign articles of consumption. On the other hand, the north, possessing no important staple, and depending much on navigation, claimed that their shipping should, at least, stand on an equal footing with other nations, as to the transportation of merchandise to and from their own ports; and that foreign impositions should be met and counteracted by regulations, which would effectually secure that object.

In the senate, these petitions were referred to the committee of foreign relations, of which Mr. King, of New York, was chairman. That able and enlightened statesman made a report on the subject, clearly evincing that the honor and interest of the United States required that British impositions should be met and counteracted by regulations on the part of this government, adapted to that object. This, he stated, was one of the principal objects of the federal constitution, and without which it would not have been adopted. That an adherence to this policy is the only method by which foreign nations can be brought to agree to commercial regulations on the basis of reciprocity. That this measure, having been adopted on great deliberation, and after repeated attempts at negotiation, had failed, could not now be abandoned without compromising the best interests of the United States.

The principles of this report were sanctioned by both houses of congress, and the petitions negatived. This firmness, on the part of the American government, produced the desired effect. By an act of parliament of the 24th of June, 1822, the British colonial ports in America were opened to vessels of the United States, and was immediately followed by a correspondent liberality on the part of this government.

*Committee of elections.* The reports of committees on elections usually contain matter of little general interest. That on the petition of General Reid, of Maryland, contesting the election of Mr. Coulson, contains a fact worthy of notice for its singularity. The votes allowed by the canvassers, gave to each of the candidates an equal number; and the governor and council resorted to a lottery to deter-



mine who should be the sitting member. The report further stated, that two legal votes for General Reid were rejected, and one illegal one received. This mistake being corrected, gave the petitioner one vote over the sitting member, and recommending a resolution giving him a seat in the house. The report, after considerable debate, was adopted.

*Death of General Pinckney.* On the 26th of February, Mr. Lloyd, of Maryland, announced to the senate, the death of his colleague, General William Pinckney, the preceding evening. The immediate cause of his death was attributed to his extraordinary exertions in a cause which he a short time before argued before the supreme court of the United States. He was obliged, from weakness, to leave the argument unfinished, and never afterwards left his lodgings. The senate appointed a committee to make the proper arrangements for his funeral, and immediately adjourned. On its being announced to the house, they also adjourned, as did also the supreme court. His funeral was attended on the 27th in the senate chamber, by the president, heads of departments, foreign ministers, both houses of congress, the supreme court, and a numerous concourse of citizens. He was the fourteenth member who had died during their attendance on congress. General Pinckney had filled, with distinguished talents, several high stations in the United States, had represented them in difficult and embarrassed times, with great ability at the courts of Madrid and London, was at the head of the profession of law, and stood among the first in the national councils.

*Cumberland road.* The great national road, called the Cumberland road, from a village in Maryland, at the foot of the Alleghany, where it commenced, designed to facilitate the intercourse between the western states and the seat of government, and ultimately to extend through the principal towns in the states of Ohio, Indiana, Illinois, Missouri, and the territory of Arkansas, to the confines of Mexico, having been nearly completed as far as Wheeling, on the Ohio river, it became necessary to provide for keeping it in repair, either by a direct appropriation from the treasury, or a toll on the travel. A bill passed both houses, adopting the latter method, and constituting it a turnpike road, and providing for the collection of a toll deemed adequate to keep it in repair. In the various appropriations which had been made for the completion of this work, the question, as to the constitutional powers of congress on the subject of internal improvements, had been repeatedly discussed. Both houses

decided in favor of the power. The opinions of President Monroe, and his immediate predecessor, were, that no such power was given by the constitution. The road had now become a very valuable national property, and its preservation must be provided for, or the expenditure of upwards of a million of dollars would be lost. Under these circumstances, it was supposed that the constitutional question was at rest. The president, however, having deliberately formed a contrary opinion, refused to sanction the bill: and in a communication of nearly a hundred pages, took occasion to instruct congress in the origin and nature of the American republics; to give them a history of the first confederation, and a digest of its provisions; and of the causes which subsequently led to the formation of the constitution under which they acted, and the objects which it embraced. He concluded, by stating the full conviction of his own mind, that the powers claimed, were not contained in express terms in any of the clauses in that instrument, and that they were not the necessary appendages of any other powers. The communication evinced much depth of research, and contained a great fund of political information, as applicable to almost any other subject as the one in question. The point resolved itself into a mere matter of construction of the word *necessary*, in that clause of the instrument which provides, that congress shall have the power to make all laws necessary and proper to carry into effect the powers expressly given them. Giving the term a strict construction, confining it to a physical necessity, it excludes the power; giving it a liberal construction, and considering it as synonymous with convenient and proper, it unquestionably embraces this object. The instrument had been so liberally construed in its various other provisions, that it was matter of no small surprise, that so strict a construction should be contended for, on a question which related merely to the preservation of the national property. The president's communication contained an elaborate argument in favor of an enlarged system of internal improvements by the general government, and a recommendation to amend the constitution in such manner, as to vest congress with the necessary powers. A majority of both houses being entirely satisfied that they already possessed the requisite powers, the recommendation was not complied with. The bill, on reconsideration, failed of passing by the constitutional majority, and no effectual provision was made for

the repairs of the road for the approaching season. The session terminated on the eighth of May.

*Spanish claims.* The eighth article of the Florida treaty provided, that the United States should pay to their own citizens, five millions of dollars, which should be in full of all claims, of a pecuniary nature, which either the American government, or its citizens, might have on the Spanish. The president appointed Messrs. White, King, and Tazewell, commissioners to liquidate and adjust the claims of individuals, and apportion the money. In the course of the examination, a question of much importance to the claimants, arose, whether damages sustained by a breach of contract on the part of the Spanish government, was embraced within the purview of the treaty. The commissioners were of opinion that they were not, but referred the subject to the executive, for ultimate decision. Mr. Adams, who negotiated the treaty, and was perfectly acquainted with the views of all the parties, decided, that as these claims were embraced in the renunciation, which extended to all cases, statements of which had been presented to the department of state, or to the minister of the United States in Spain, since the convention of 1812, until the signature of the treaty, as well those arising from breach of contract, as from the exercise of illegal force, they were included in the treaty, and were to be examined, liquidated, and paid, from the general fund appropriated for that purpose. After several adjournments, the commissioners closed their sessions in 1823. The amount of claims allowed something exceeded five millions, rendering a small per centage deduction necessary.

*Northwest coast.* A discussion of considerable interest arose between the American and Russian governments, on the subject of the northwest coast. By the Louisiana treaty the United States acquired the Spanish title to all the country north of the Mexican provinces, the northern boundary of which, as settled by the Florida treaty, was the parallel of the forty-second degree of north latitude. This title, however, was of very little estimation, as no Spanish settlement had ever been made north of that parallel. Soon after the close of the revolutionary war, Mr. Robert Gray, an American adventurer from Boston, entered the mouth of Columbia river, in latitude forty-six, landed, and traded with the natives. In the year 1805, Lewis and Clark, under an appointment from the president of the United States, on an exploring expedition, ascended the

Missouri, crossed the Rocky mountains, descended the Columbia, and wintered near its mouth. This river has its source in the region of high lands, which divide the streams of the pacific from those of the Atlantic, is the largest of the west, and nearly of the size of the Mississippi. No European settlements were ever made on the western coast of America, between the fortieth and fifty-seventh parallels of north latitude, until the year 1816; when the British attempted to form an establishment at the mouth of the Columbia river. On a representation of the American claims to this territory, to the British government in the year 1818, the settlement was removed. The subject of establishing a military post, and a colony at that place, was then taken up and discussed with considerable interest in congress. The reasons assigned were, that it would form a convenient rendezvous for American vessels trading to the northwest coast, secure them from plunder, awe the natives, establish a title according to the European principles of colonization, to a large extent of coast and territory, and probably be the parent of other settlements. It was calculated that it would extend back, and meet the tide of emigration from the east, and complete the extent of the American empire from the Atlantic to the Pacific. Since the voyage and discovery of Mr. Gray, the American trade had been gradually extending itself in that region. It now employed from ten to twenty vessels. Their outfits consisted of articles of small value, which were bartered with the natives for sea-otter skins and furs. These were transported to China, and return cargoes obtained of great value. This traffic, though exhibiting on the treasury books a great balance of import beyond the export, was a source of individual and national wealth.

By an edict of the emperor Paul, in the year 1799, a Russian company was formed, for the purpose of trafficking with the natives on the northwest coast of America. They formed a small establishment on an island in Behring's straits, called New Archangel, in latitude fifty-seven. Their privileges extended south, to latitude fifty-five. In September, 1821, the emperor Alexander published a ukase, extending the jurisdiction of this company still further south, to the fifty-first degree, prohibiting all foreigners from any intercourse with the natives on the American coast and islands north of that parallel, and subjecting their vessels to confiscation if found within one hundred leagues of the shore. The edict, though expressed in general terms, was chiefly

aimed at the American trade, which had been carried on with considerable activity and success within the limits of the prohibition. The Russian government justified the proceeding on the ground of the discovery of Behring's straits and the neighboring islands, by a navigator of that name, in the year 1728, and the consequent settlement at New Archangel, claiming that the fifty-first degree of latitude being equally distant from this establishment, and the American territory at the mouth of Columbia river, was the true boundary between them: and that they, owning both the Asiatic and American coasts, north of that parallel, had a right to interdict the navigation of the intervening waters, to the extent stated in the ukase.

The American government claimed, that being in possession of much the greatest portion of the North American continent, and having explored the whole, there was now no vacant territory which could be the subject of new colonization. With existing European colonies, on this continent they had no controversy, but new ones were inadmissible. This important and commanding ground having been taken with firmness, less difficulty has been found in maintaining it than was apprehended. The Russian government acquiesced so far as to abstain from molesting the American trade in that quarter.

*Deported slaves.* By the first article of the treaty of Ghent, it was stipulated, that all territory, possessions, and places taken from either party by the other, during the war, should be restored without carrying away any slaves, or other private property. The British commanders at the several posts, having charge of the embarkation, construed this provision to extend only to such slaves and other private property as might have come into their possession after the ratification of the treaty, claiming that property taken in the course of the war was, by the law of nations, vested in the captors, and was not either according to the letter or spirit of the treaty, to be restored. Regulating their conduct on this principle, they carried away a considerable number of slaves, which they had captured, or enticed away from their masters during the contest. The claim on the part of the American government, in behalf of the owners was, that the article embraced all slaves, and other private property, in possession of the British at their several posts, in the United States, at whatever period of the war such possession was acquired. On this principle, much the greater part of the property carried off by the British,

was reclaimed. By a very wise and humane, though unusual provision in the treaty, it was stipulated, that if any controversy should arise in the execution of its articles, about which the parties could not agree, it should be submitted to the arbitrament and final decision of some friendly power. After several fruitless attempts to adjust this dispute with the British government, the emperor of Russia was selected as the arbiter, to decide the controversy. His decision was in favor of the American claim, and the owners were compensated from the British treasury. The introduction and successful application of the principle of submitting national disputes to arbitration, is justly ranked among the most important events of the present period. As nations acknowledge no superior, their controversies must be settled, either by the sword, by the acquiescence of the weaker to the stronger, however unfounded his claims, or by reference to some mutual friend. Could the latter method, now happily introduced, be generally adopted, it would form a new and important era in the history of man, and go far to relieve the human family from the desolating scourge of war.

*Russian ukase against freemasonry.* Since the accession of Alexander to the throne of Russia, the intercourse between that nation and the United States has generally been of a friendly character. No subject of collision has arisen to disturb the harmony, except the one relating to the northwest coast, which was settled with much less difficulty than usually attends such affairs. The jealousy of the emperor, however, in regard to republicanism, and principles of an anti-monarchal tendency seemed to increase with his knowledge of the institutions of this country. Freemasonry, a society of great antiquity, and co-extensive with the civilized world, became the subject of his peculiar distrust. The members of this fraternity, in different parts of the world, hold each other as brethren, and maintain a friendly intercourse. However much their principles may, in some instances, have been perverted, they profess, as masons, to be quiet subjects of the governments under which they live, and to be opposed to revolutions and conspiracies against its authority. The emperor, apprehending that the freemasons of his dominions, by a correspondence with their brethren in the United States, might imbibe notions hostile to the principles of despotism, and introduce the seeds of a revolution, by a ukase of the 30th of August, 1822, abolished the institution, and prohibited, under severe penalties, all secret societies in his dominions. All members of such so.

cieties were required to engage in writing, to abandon them, and every public officer was further obliged to make a written declaration, whether he belonged to any freemasons' lodge, or other secret society, in or out of the empire, to make known the nature of such society, and give a pledge that he would not in future belong to any fraternity of that character, on pain of being immediately dismissed from the service. The emperor introduces this rescript by a declaration, evincing his extreme solicitude and jealousy upon the subject of political innovations. "The troubles and discords," he says, "which have arisen in various other states, through the existence of secret societies, some of which, under the denomination of freemasons, were at first founded for charitable purposes, and others secretly pursued political objects, have induced some governments to view them with strict attention. The emperor has, from these considerations, been led to erect a firm bulwark against every thing which might be injurious to the empire, especially at a time when so many states afford sad examples of the ruinous consequences of the philosophical subtleties now in vogue."

*Decoudray's expedition.* During the contest between Spain and her South American provinces, the islands of Cuba and Porto Rico maintained their relations with the parent state, not however without some revolutionary movements. In the year 1822, one Decoudray, a Swiss adventurer, came to New York, and in conjunction with Baptist Irvine and others, formed the plan of revolutionizing Porto Rico; and setting up an independent government of which they were to be the chiefs. To effect this object, they fitted out a small armament, and eluding the vigilance of the custom-house officers, proceeded to St. Bartholomews, the place of their rendezvous, expecting to draw to their standard the disaffected of Porto Rico, and with them and the slaves of the island to accomplish their purpose. The island at this time contained a free population of about 90,000, and 100,000 slaves. It was a place of considerable strength, and in the neighborhood of Cuba, from whence a force adequate to support the Spanish authorities might readily be obtained. The rigor of the Spanish colonial system had been less felt in these islands than on the neighboring continent; they had been indulged with some commercial privileges denied to other colonies; and felt little disposition to put their existence at hazard by a revolt. Their weakness and insular situation forbid any prospect of success. Decoudray's armament was too feeble

and ill-concerted to afford any encouragement. He and his deluded followers were captured on their passage from St. Bartholomews, and doomed to suffer the consequences of their folly.

*Second session of the seventeenth congress.* The second session of the seventeenth congress commenced on the second of December, 1822. A quorum of both houses assembled on that day, and the customary message was received on the next. It presented a promising aspect of the foreign and domestic affairs of the nation. It contained nothing of any great interest because nothing had happened. It recommended no important measure, because none was deemed necessary. The session, terminating on the third of March, was necessarily a short one. Few acts of general interest were passed. The government in all its departments and relations was proceeding in a prosperous train. No great political question was agitated in congress, or called forth the energies of that body.

*Vice president's accounts.* In virtue of a law of the last session, providing that no payments should be made to any public officer, whose accounts were unsettled, and who appeared to be in arrear on the treasury books, the payment of the vice president's salary was suspended. That officer, as governor of the state of New York in the late war, was required to call out large portions of the militia to defend the city, and the extensive inland frontier of the state. From the deranged situation of the national finances, he was frequently obliged to provide for their pay and subsistence on his private responsibility. He had executed the arduous duties attached to his military character as captain general of the militia of the state, and commandant of the military district of New York, with great zeal and fidelity. He had incurred responsibilities for the public service of more than a million of dollars, to the detriment of his private credit. The reimbursements from the national treasury were not as soon as was expected, or in season to meet his engagements. This produced embarrassment and ruin in his private affairs. In some instances the subordinate agents misapplied the money; in others the proper vouchers were not taken; so that in rendering his account to the treasury, on the principles on which its officers were authorized to settle them, he appeared a large defaulter. The comptroller instituted a suit against him in the circuit court, in which he made it appear that so far from being in arrears to the government, he was in advance the sum of



**\$136,799.97.** A committee of the house of representatives, to whom the peculiar circumstances of his case were referred, reported facts highly honorable to that officer. They say that "he had performed all that was required, and more than was promised or expected. The protection of the city of New York, and the successful issue of the campaign of 1814 on the frontier, was owing in a great measure to his exertions."

The committee reported, that he ought to be allowed interest on his advances until they were reimbursed, and a commission on all moneys that passed through his hands. That he ought to be indemnified for losses incurred in consequence of the government's failing to reimburse the moneys borrowed by him, at the stipulated time; and that he ought not to be responsible for losses incurred by the fraud or failure of his sub-agents. The committee reported a bill, which passed with little opposition, directing the accounting officers of the treasury to settle his account upon these principles, and suspending as to him the operation of the law of the last session, which prevented the payment of his salary. On a final adjustment of his accounts on the principles reported by the committee, a balance of \$35,190 was found in his favor.

## CHAPTER XIV.

State of the debt arising from the sale of the public lands—Western banks—Proceedings of the secretary of the treasury—Charges against him—Report of a committee thereon—Piracies in the West India seas—Their origin—Principal haunts—Armament for their suppression—Commodore Porter appointed to the command—Key West—Proceedings of the squadron—Sickness of the crews—Foxardo affair—Commodore Porter ordered home—Court of inquiry—Its report—Court martial—Its proceedings and sentence—Commodore Porter engages in the Mexican service—Objections to such a measure—His conduct at New Orleans.

*Western debts.* In the year 1816, the debt due to government from the western section of the union, arising principally from the sale of public lands, exceeded twenty millions. As most of the expenditures of government were in the Atlantic states, it became necessary to transfer these funds from the west to the east. In this operation, the treasury experienced great difficulties. The course of exchange was uniformly against the west. The states in that section had followed the example of the east, in incorporating numerous banking institutions, with little specie capital. Previous to the commencement of the operations of the bank of the United States, the local banks of the west had necessarily been made the depositories of the government moneys, by the aid of which, they sustained a doubtful credit, and extended their operations. By the charter of the government bank, that institution was made the exclusive depository of the public funds, in consideration of its engagement to transfer them, free of expense, from the place of collection, to that of disbursement. In the year 1817, the operation of transferring the public moneys from the local banks, to the branches of the United States bank in the west, commenced; and was attended with great difficulties and embarrassments. The state banks were obliged to stop discounts; call in heavy instalments from their customers, and suspend specie payments where it had not already been done. Some of the least cautious became insolvent. Great pecuniary embarrassment and consequent irritation ensued. A determined hostility against the United States bank pervaded the west. Attempts were made to

drive its branches from the state of Ohio, by an enormous tax, which, however, was adjudged to be unconstitutional by the supreme court of the United States.

*Proceedings of the secretary of the treasury.* The secretary of the treasury, desirous, as much as was in his power, to mitigate these evils, made an arrangement with some of the local banks, which he considered the most safe, to continue them as the depositories of the public funds, with the consent of the bank of the United States. A certain portion of these deposits the banks were authorized to consider as permanent, and count upon as active capital. In twelve banks, deposits of this description amounted to \$900,000. For this accommodation, the banks agreed to pay government drafts when presented, and transfer the funds which were not to be considered as permanent, to such places as the secretary should direct. Subsequent to this arrangement, several of the banks stopped payment, with public money in their hands amounting to \$440,820, a considerable portion of which was finally lost.

No financial operations had been attended with greater difficulties, since the commencement of the government, than the management of the unavailable funds in the west. During the period of Mr. Crawford's administration of the treasury department, from 1816 to 1824, twenty-one millions of dollars had been collected in that section, and realized; admitting, then, the whole sum in the hands of the insolvent banks to be lost, it would not much exceed two per cent. on the whole amount collected, a sum less than could be expected, taking into view the state of the currency during that period.

*Charge against Mr. Crawford.* The whole course of Mr. Crawford's administration had proved him to be a man of the strictest integrity, and an able and skillful financier. His conduct, however, did not escape the severe animadversion of his enemies. He had become a prominent candidate in the presidential election of 1824; and as is to be expected on such occasions, every thing, true or false, which could be brought to bear on that question with any semblance of probability, was brought forward. Near the close of the first session of the eighteenth congress, Ninian Edwards, formerly governor of the state of Illinois, and then a member of the senate of the United States, in an address directed to the speaker of the house of representatives, and transmitted to him by the writer from Wheeling, after he had left Washington, to prepare for a mission to Mexico,

accused the secretary of the treasury of mismanaging the public funds; violating the law regulating the treasury department; and endeavoring to screen his conduct from the view of congress, by giving incorrect and unsatisfactory answers to their calls for information relating to the government moneys in the west.

*Report of the committee of the house of representatives.* On this representation, the house of representatives appointed a committee to investigate his conduct, with power to send for persons and papers. Before that committee, Mr. Crawford made an able, satisfactory, and unanswerable defense. In a detailed statement of his transactions with the western banks, he was able to show that his conduct had been regulated by a strict conformity to the law, and a sacred regard to the public interest. That the course he pursued had resulted to the advantage of all concerned. The committee, in their report, say, "that no intentional misstatement has been made to the house; that no document or information has been withheld from improper motives; and that the result does not show in the treasury department any want either of fidelity or prudence in the management of the public funds." The report was the more honorable to the secretary, as a majority of the committee were his political opponents; and though sparing in commendation, contains a complete acquittal of the charges. The investigation silenced his enemies, and placed him on high ground in view of the nation. In the same degree, the character of his principal accuser suffered. The part he took against Mr. Crawford obliged him to abandon his Mexican mission, and retire to private life.

*West India piracies.* An alarming system of piracy in the West India seas sprang up out of the war between Spain and the South American republics, destructive to the commerce of the United States. In the early stages of that war, those provinces having very little shipping of their own, granted commissions for privateering against the commerce of Spain, to any foreigner who applied. Numerous vessels were fitted out in the ports of the United States, and elsewhere, commissions taken from the republics of the south, and a destructive war carried on against the navigation of Spain. The business, lucrative at first, became much less so, by the precautions of the Spanish government to guard against it. Privateering and piracy are nearly allied: the latter is often the offspring of the former. Foreigners, whose nation is at peace with Spain, who can

make up their minds to rob and plunder her vessels under a Buenos Ayrean commission, will, in most cases where the prospect of greater gain presents itself, readily engage in the same business against the vessels of all nations, without a commission. Desperate gangs of this description, of various nations, and of all colors, infested the American seas from 1818 to 1828, to such an extent as to render their navigation extremely dangerous. Their robbery was often accompanied with the most cool-blooded and barbarous murder. The question, whether they should murder the crew and scuttle the vessel, was determined only by the consideration of its being the safest course, and was often, and probably in the greater number of instances, done.

Their principal haunts were on the northern coast of the island of Cuba, from one to two hundred miles distant from Havana. There they found a region uninhabited, out of the sphere of the operation of the Spanish authorities, indented with numerous small inlets, affording secure places of retreat for their small craft, and inaccessible to vessels of any considerable size. The pirates had their agents at Havana and Matanzas, to give them notice of the sailing of merchant vessels from those ports. Such as sailed without convoy were almost sure of falling a prey to them. The fruits of their plunder were disposed of at those ports with very little attempt at concealment.

The course first taken by the government to protect their commerce in these seas, was to place there the Congress frigate and eight small ships, for the purpose of affording convoys, and suppressing piracies. This force, in the year preceding, November, 1822, captured and destroyed upwards of twenty piratical vessels on the coast of Cuba. But it did not effectually answer the purpose, as it was not provided with the means of following them into their recesses, and breaking up their haunts.

*Means taken to suppress piracies.* Early in the second session of the seventeenth congress, in December, 1822, an act was passed, making provision for an armament of a different description, to consist of light vessels and boats, calculated to pursue the pirates to their hiding places; and appropriating \$160,000 to that object. In execution of this law, an additional force, consisting of the Peacock sloop of war, a steam galliot, and ten small vessels, carrying three or four guns each, was provided for the West India service, and with the vessels then on the station, placed under the command of Commodore Porter. The armament

sailed towards the last of February for St. Thomas, the place of their first rendezvous.

*Proceedings at Porto Rico.* Off Porto Rico, the commodore dispatched a letter to the captain general of that island, informing him of the object of the expedition, requesting his co-operation, and wishing for a descriptive list of the privateers from that island bearing regular commissions, that the ships under his command might not interrupt them. The officer charged with the message, not returning as soon as was expected, a second, and a third vessel was sent to the port of St. Johns to learn the cause. The latter, under the command of Lieutenant Coke, was forbidden to enter the harbor. The reason assigned by the lieutenant governor, commanding in the absence of the captain general, was, that as one hostile armament had lately been fitted out from the ports of the United States, under Ducoudray, against Porto Rico, a regard to the safety of the island required, that not more than two vessels of war from that power should be permitted to enter the harbor at once. The Fox, in endeavoring to enter against this order, was fired upon from the fort, and Lieutenant Coke killed. On the return of the captain general, he disapproved of the measure, apologized to Commodore Porter, gave free entrance to his ships, and directed the interment of Lieutenant Coke with military honors. The little armament was divided into four squadrons and sent to reconnoitre the northern coast of Cuba and St. Domingo.

*Key West.* The commodore then proceeded to Key West, which had been designated as a place of general rendezvous in his instructions. This is the largest of the small islands on the Florida coast, denominated keys because they guard the passages from the main ocean to the shore. It is seven miles long, and two wide, thirty miles distant from the nearest land, and seventy from Havana. It was taken possession of in the preceding year, by Lieutenant Perry, in the schooner Shark, for the purpose of a naval station in the Florida seas. It has a convenient harbor, denominated Port Rodgers. Its name was changed to that of Thompson's island, in honor of the secretary of the navy, under whose direction it was occupied. The settlement was afterwards denominated Allenton, out of respect to the memory of Lieutenant Allen, slain by the pirates.

*Success of the expedition.* A more difficult and hazardous service was scarcely ever undertaken. A long and constant exposure to a tropical sun by day, and deadly chills

and damps by night, constantly threatened the lives of the little bands, who were seeking, in open boats and vessels of the smallest size, the haunts of the freebooters among the rocks and shoals of the uninhabited coasts of Cuba and St. Domingo. They performed it, however, with such signal zeal and success, that at the end of sixty days from the commencement of his operations, the commodore, in his official dispatches, was able to say, "that there was not a pirate afloat in the region of Matanzas, the scene of their greatest depredations, larger than an open boat; and not a single piratical act had been committed on the coast of Cuba since he had organized and arranged his forces." He, however, very much regrets that the gazettes of the United States had given publicity to the fitting out of his armament, its destination and object, long before his arrival in the West Indies, which enabled the pirates to change their ground, and prevented their complete destruction; which, otherwise, he should have accomplished. Many of them sought other hiding places in the southern and south-western coasts of Cuba, near cape Antonio, whence, at an after period, they renewed their depredations.

*Pardoning pirates.* Several convictions for piracy, attended with aggravating circumstances, were had in the courts of the United States, and the convicts pardoned. The representations which induced the president to exercise the pardoning power in these cases, have not been made known. The measure occasioned much animadversion. Few crimes less deserve executive clemency. The pirate is the professed enemy of the human race; his victim is the peaceful merchant, pursuing his lawful business on the common highway of nations. Death in its most appalling forms is his usual resort. Pardoning this offense, after a conviction before an enlightened tribunal, justly excites alarm. Punishment, not certainly following conviction, is deprived of half its terrors. The pardoned culprit is again let loose upon society, encouraged to renew his depredations, in the hope, in case of a discovery, of a renewed act of clemency.

*Sickness of the crews.* The important objects of this expedition were not obtained without great sacrifices, not so much from any recontres with the pirates, as from the climate and nature of the service. The affair in which Lieutenant Allen and several of his men were killed, was almost the only one attended with the loss of life. In August, the yellow fever, in its most alarming and deadly form,

made its appearance in the squadron. Commodore Porter, after nearly falling a sacrifice to the disease, reached the United States with a considerable portion of his command. Commodore Rogers, with a number of surgeons, was sent out to their relief. Porter remained in the United States until February, 1824, when he returned and continued on the station until the last of May; when there again being some appearance of the fever among the crews, he left his post, and came to the United States. The government disapproved of his leaving the station, so early in the season, without their orders or consent, and without any sufficient cause, and ordered him to return in the *John Adams*, which sailed on the 24th of October, 1824. Just before his return, an incident took place which, though of little consequence in itself, became important from the transactions to which it gave rise.

*Affair at Foxardo.* In October, 1824, Lieutenant Platt, in a small schooner, was cruising off the island of St. Thomas, about thirty miles eastward of Porto Rico, when the house of Cabot, Baily, and Co., merchants of the former island, informed him that their store had been broken open, and goods to the amount of five thousand dollars stolen out of it, requesting his assistance, and offering a reward of a thousand dollars for their recovery. Suspicious circumstances led to a belief that they had been carried to Foxardo, a small town in Porto Rico. Lieutenant Platt engaged with zeal in the business, and having been furnished with a description and sample of the goods, and taking on board the clerk of the house, and a pilot from St. Thomas, proceeded to Foxardo, and made known his character and business to the authorities of the town. As he appeared before them in the dress of a private citizen, without his commission, and on business no ways connected with his official character, he became himself an object of suspicion, and was detained with circumstances of some indignity, until he could send on board and produce his uniform, and commission, when he was released without having obtained any information or assistance as to the object of his pursuit. On Commodore Porter's return, the lieutenant, feeling disappointed, and indignant at the treatment he received at Foxardo, reported to him the circumstances. The commodore, viewing it as an insult to his flag, and the government whose commission he bore, immediately proceeded with three ships to the harbor of Foxardo, landed, took possession of a small fort which guarded its entrance, marched up the town in



military style, and demanded an apology, such as he should dictate, for the insult offered his lieutenant, threatening the destruction of the town, in case of refusal. The required apology being given, he re-embarked without doing or receiving any injury.

*Commodore Porter superseded.* This transaction was at variance with the commodore's instructions, which required him, by all the means in his power, consistently with the honor of his government, to cultivate a good understanding, and conduct with moderation towards the Spanish authorities. They considered it as a hostile invasion of their territories; and a violation of their rights. Commodore Porter was ordered home, and Captain Warrington appointed to succeed him in the command.

*A court of inquiry.* A court of inquiry was first held to report as well on the general conduct of the squadron, while in the West India seas, as on the particular circumstances of the Foxardo affair. The commodore objected to the organization of the court, on the ground that two of the officers out of the three of which it was composed, were his juniors, and refused to make any explanations before them; but while the subject was under the consideration of the executive, published a vindication of his conduct, containing severe remarks on the secretary of the navy, and on the course which had been pursued towards him. The report of the court of inquiry was highly commendatory of the general conduct of the commodore, and of the armament under his command; but censuring him for the Foxardo transactions, imputing them, however, not to any improper motive but to an indiscreet zeal for the honor of the service.

Lieutenant Platt's undertaking to look up the lost goods, of the St. Thomas merchants, was entirely out of the line of his duty. Appearing at Foxardo in the capacity of a searcher for stolen goods, he could lay no claim to any special honors as a naval officer of the United States, however justice and propriety might require the inhabitants to aid him in his object. The commodore's military visit to avenge a supposed insult, could be considered in no other light than a hostile invasion of a peaceful territory. The weakness and incapacity of the village to make resistance, aggravated rather than diminished the offense.

*Court martial.* On the facts reported by the court of inquiry, the commodore was arrested, and tried by a court martial on two charges, the first for disobedience of orders, in the affair of Foxardo; the second, insubordinate and unof-

ficer like conduct, in relation to the time of publishing his pamphlet, and its subject matter.

*Defense.* His defense, on the first charge, rested on two grounds, one, that Foxardo was a piratical establishment, which he was authorized to suppress; but of this there was no proof. The other, to which it was indeed difficult to give a satisfactory answer, was that his conduct was fully justified by the precedent of the invasion of the Floridas in the Seminole war. His defense, drawn up with great ability by Mr. Jones, compared the case with the precedent in all its objectionable points, evincing that as to violation of instructions, and unwarranted aggression on the territory of a nation at peace, he was fully borne out by an example, which had been passed over in silence at least, if not approved by the executive; and that his conduct fell far short of the precedent. No other answer could be given to this part of the defense, than that one bad precedent could not be made use of to justify another; and that if the government had been too remiss in the first instance, there was the more necessity for an example in the second. The defense also, went into an elaborate argument to show that the publication of the pamphlet in question, was not a military offense within any of the provisions of the acts for the regulation of the navy.

*Judgment of the court.* The court martial found him guilty on both charges, and sentenced him to be suspended from his command for six months. The sentence was approved and carried into execution. The commodore felt himself greatly aggrieved by these proceedings. He had voluntarily relinquished an easy and honorable station, as commissioner of the navy, for a very difficult and dangerous service, which he had executed with great zeal and success, resulting in important benefits to his country. For a single error in judgment, in relation to the extent of his powers, which had been attended with no evil, and which fell far short of other cases which had been overlooked, he had been taken from his command, ordered home, arrested, tried by a court martial, and suspended. Under these impressions, he resigned his command in the navy, and entered into a negotiation with the Mexican government, by which he became commander in chief of all the naval forces of Mexico, with a salary of twenty-five thousand dollars a year.

The vigorous measures taken by Commodore Porter and his squadron, effectually suppressed piracy in the gulf of Mexico, and the West Indian seas. A small force after-

wards proved sufficient to protect the American commerce in that quarter.

*Engaging in foreign service prohibited.* Commodore Porter's engagement in the Mexican service, though warranted by the usages of European nations, who permit their officers, for the sake of perfecting themselves in the military art, to seek employment in foreign armies, was in direct violation of the principles of the American government, its laws, and the decisions of its highest tribunals. At an early period of General Washington's presidency, a pacific, neutral policy was adopted, which has been steadily adhered to through every successive administration. In June, 1791, an act was passed, prohibiting any citizen from enlisting, or entering himself, or hiring, or enlisting any other person in the military or naval service of any foreign prince or state, under a penalty of a fine not exceeding one thousand dollars, and imprisonment not exceeding three years.\* This statute has been revised and continued with some additions to the present period; and American citizens have suffered its penalties under the sanction of the highest tribunals of the country.†

The commodore's conduct was a manifest violation of the statute, and of much greater moment than the enlistment of hundreds of private individuals. The Mexican government considered his name as a host, and his services in their navy as invaluable. But the popularity of the cause, the high standing of the officer, and the weakness of Spain, against whom his efforts were to be directed, not only shielded him from prosecution, but emboldened him to commit further acts, compromising the neutrality of the United States. With little ceremony, and without asking the permission of the American government, he made Thompson's Island a place of rendezvous, for the Mexican fleet; a station most convenient to annoy the Spanish commerce with Porto Rico and Cuba. At New Orleans, he stationed a Mexican vessel of war, off the mouth of the Mississippi, and published a handbill, inviting able bodied seamen, and others, from any country, to join his standard. In this publication, high wages were offered, and a construction put upon the prohibitory statute, at variance with common sense, the opinion of the district attorney, and all American authority. He claimed, and induced some deluded persons to

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\* Acts of congress, June, 1791, and April, 1818.

† United States *vs.* Isaac Williams. Circuit court, district of Connecticut.

believe, that he might, within the jurisdiction of the United States, enlist into his service any persons, who were not native or naturalized citizens ; and that any who had acquired the right of citizenship, might go without the jurisdictional limits of the United States, and there enlist in the Mexican service ; and for this purpose the brig Guerrero was stationed off the Balize to receive them. By these representations, he induced twenty persons at New Orleans to join his standard. On their way down the Mississippi, they were arrested by the officers of government, and subjected to the penalties of the law.

## CHAPTER XV.

Greece—President's message on the subject—Commencement and progress of the revolution—Applications to other governments for aid—Views and policy of other nations on the subject—Resolutions introduced into congress to send an agent to Greece—Debates on the subject—Liberal donations to the Greeks—Alliance of 1837, of England, France, and Russia, to put an end to the war—The manner in which their interference was treated by the parties—Battle of Navarino—War between Russia and Turkey, favorable to the Grecian cause—First meeting of the eighteenth congress—Message—Tariff—Report of the committee of manufactures—Debates—Views of different sections and interests of the union on the subject—Passage of a general tariff bill—Measures taken by the British government and merchants, to defeat its operation in regard to woollens—Massachusetts claims—President's message on the subject—Rejected—Bill for the abolishing imprisonment for debt—Its origin—Proceedings of the legislature and courts of Kentucky, in relation to the collection of debts—The bill passes the senate, and is negatived in the house.

*Greece.* In presenting to the view of congress the state of Europe, at the opening of the session in 1823, the president took occasion to remark, on the subject of Greece, that "the whole civilized world took a deep interest in their welfare; that a strong hope was entertained that they would succeed in their contest, and resume their equal station among the nations of the earth. Although no power had declared in their favor, none had taken part against them. Their cause and their name had protected them from dangers which might have overwhelmed any other people. From the facts which have come to our knowledge," he remarks, "there is good reason to believe, that their enemy has lost, for ever, all dominion over them, and that Greece will again become an independent nation. That she may obtain that rank, is the object of our most ardent wishes. The American people have ever felt a peculiar interest in the struggles of any nation for self-government; contests of this nature bring to their recollection the periods of their own revolution, and enlist all their sympathies in their behalf." The president's language, on this occasion, expressed, in appropriate terms, the feelings of the nation.

The country of Greece, comprehending numerous islands in the Archipelago, and a considerable portion of territory in the southeastern section of Europe, and now containing a population of a million and a half of inhabitants, was once

the seat of the arts, of learning, and of every thing dear to civilized life. For nearly fifteen centuries, this country had been subjected to the Turkish yoke. Oppressed by exactions, limited only by the will of their masters, the inhabitants had no incitements to industry, and had sunk into a degraded state. Their condition excited little interest in Europe or America. The present race of inhabitants, as well as the condition of the country, was considered as forming a contrast, in almost every particular, with ancient Greece.

*Origin of the revolution.* The American principle, so denominated because it was first successfully maintained in the United States, that mankind have a right to govern themselves, and enjoy the fruits of their own industry, had been gradually gaining ground in Europe, in opposition to the claims of despotism. It had found its way into Greece, and prepared that oppressed people to embrace the first opportunity of asserting their rights.

In the year 1820, Ali Pacha, a powerful prince of the Ottoman empire, revolted against his sovereign; and as a means of furthering his own views, encouraged a revolutionary spirit which he perceived was making a faint appearance in Greece. At the same time, Ypsilanti, a native Grecian, and hospodar of Wallachia, having been deposed, in consequence of his being suspected of an attachment to Russia, made his appearance among his countrymen, and placed himself at their head, in opposition to the authority of the sultan. The prospect of a war with Russia, the rebellion of Ali Pacha, and the defection of Theodore, the successor of Ypsilanti in the government of Wallachia, formed a combination of circumstances favorable to the views of the Grecian patriots. With a population little exceeding that of the state of New York, with far less means, and united only by a sense of common danger, this poor, depressed people engaged in a contest for existence with a military despotism, commanding twenty millions of subjects. Their cause, in its incipient stages, appeared hopeless. In the first year, Ypsilanti, disheartened, and disgusted with what he supposed to be the treachery or cowardice of a corps under his immediate command, abandoned them. This, however, had not so great an effect as might have been apprehended. The nation rose en masse. The spirit of their ancestors seemed to pervade the present inhabitants. A war of the most brutal and exterminating character ensued. The Turks, on the principle of ancient and savage warfare, made

no prisoners, but either murdered, or sold for slaves, men, women, and children, of every character and description, that fell into their hands. The Greeks retaliated to the full extent of their means.

*Its progress.* The revolution continued its progress; and in subsequent years began to systematize itself, and assume a regular form. A congress of representatives was held at Corinth, in 1822, which framed a government upon the republican principle, and assumed the direction of their affairs. Agents were sent into different parts of Europe to represent their cause, and solicit public and private aid. These applications were attended with considerable success. Military adventurers to a small extent resorted to their standard. But the exterminating and savage character of the war prevented them from receiving much aid from this source. Contributions however from private sources were liberally bestowed. The friends of humanity throughout the civilized world took a deep interest in their welfare. They felt as though, if ever a cause would justify the interference of other powers, between a nation and a portion of its oppressed subjects, it was the cause of Greece. But no such interference could be obtained. The emperor of Russia, who at this period, under the character of the head of the holy alliance, directed the affairs of continental Europe, saw with pleasure the Ottoman empire wasting its resources in a domestic contest. An enemy to republican governments in any shape, Greece could expect nothing from him. His whole policy on this subject is expressed in a state paper, in a short sentence peculiarly his own; "that the visionary notion of the right of the people to govern themselves, had thrown a torch into the midst of the Ottoman empire." The various congresses of the allied sovereigns whose ostensible object was the preservation of the peace of Europe, maintained a studied silence, when a single declaration would have probably made Greece an independent nation, and restored peace to that distracted portion of Europe. The Grecian deputies sent to the congress of Verona were dismissed without a hearing. The people of Great Britain, France, and other European nations, espoused their cause with ardor, and made liberal donations for their relief. The governments observed a strict neutrality.

*American policy towards Greece.* In the year 1823, Mr. Luriettis, the agent of Greece at London, though the agency of the American minister there, addressed a letter to Mr. Adams, the secretary of state, soliciting the recogni-

tion of the Grecian republic, the establishment of diplomatic relations, and aids from the government. In reply, he is assured of "the deep interest, which the people of the United States take in their cause; but that the measure solicited would be a departure from the principles adopted by the American government in their foreign relations. At peace with all the world, their established policy, and the obligations of the law of nations, preclude them from becoming voluntary auxiliaries to a cause which might involve them in war. If, in the progress of events, the Greeks should be enabled to establish and organize themselves as an independent nation, the United States," the secretary assures him, "would be the first to welcome them into the family of nations, to establish diplomatic and commercial relations with them, and to recognize with special satisfaction their constituted state in the character of a sister republic." These sentiments were in perfect accordance with the public opinion regarding the course which it was the duty of the government to pursue.

*Congressional proceedings relating to Greece.* In congress, the remarks of the president on the subject of Greece in his opening message, were seconded by a resolution introduced by Mr. Webster into the house of representatives, making an appropriation to defray the expenses incident to the appointment of an agent or commissioner to Greece, whenever the president should deem it expedient to send one. The impropriety of making an appropriation for the salary of an officer, whose appointment had not been made, or even suggested, by the president, was, in this instance, overlooked in the warmth of patriotic feeling. The executive, the constitutional organ of communication with foreign powers, is altogether best qualified to judge of the propriety and expediency of missions, and until they are determined on, and notified to congress, an appropriation is premature, and is a strong implication of neglect in the executive. Powerful reasons existed against this mission at this period. The revolution was by no means accomplished. A successful result was rather to be wished, than expected. The war was raging in all its horrors, carried on on both sides with savage ferocity. Any aid or interference by the United States in favor of one party, would be deemed an act of hostility to the other, and subject a valuable trade in the Levant to certain destruction. However much the people of the United States might be disposed to rejoice in seeing their principles of civil liberty springing up and flourishing



in any part of the globe, they were not disposed to undertake a crusade to a distant region in their support. It was at least problematical, whether there was virtue and intelligence enough among the Greeks to establish a regular government on the principles of civil liberty; and still more doubtful whether such a republic would be suffered to exist surrounded by powerful monarchies. The introduction of the resolution, however, was not to be regretted, except for the time occupied in its discussion; if passed, it would remain a dead letter until the president should think proper to make the appointment. It embodied and gave utterance to some of the noblest feelings of the human mind. It gave the mover an opportunity to rival the best specimens of Grecian oratory, in bringing to the recollection of his audience the high character of its ancient inhabitants; in describing the oppression to which their descendants are subject, the tyranny of their masters, and their noble exertions to regain their liberties. The same opportunity was improved by many others, though at humble distances from the mover. The consideration of this resolution occupied a considerable portion of the attention of congress for several weeks, and it was then negatived by a large majority on the ground of its inexpediency.

*Contributions in aid of Greece.* The debates on the mission to Greece, which as a legislative measure was of little importance, echoed the genuine expression of the public sentiment, and very much aided in calling forth liberal donations in her behalf. Several cargoes of provisions and clothing were collected and sent to their relief, from different quarters of the United States. The principal money contributions were employed by a Grecian agent in building two frigates in the city of New York. His funds failing, obliged him to sell one, to discharge his bills and enable him to equip the other. During the whole course of the struggle, while the government has maintained its neutral position, the people have taken a deep interest in the success of the Greeks, and liberally contributed to their relief.

*Interference of European powers. 1827.* The struggle continued from 1820, without the interference of any European power, until 1827, when England, France, and Russia, by a compact between themselves, executed at London on the 6th of July, stipulated that the Turks and Grecians should cease fighting; that terms of peace should be proposed, to which if either party dissented, they should incur

the displeasure of the allied powers. By these terms, Greece was to remain a province of Turkey, subject to pay a stipulated tribute, which was not liable to be increased, and was to be levied and collected by Grecian officers. That the Greeks were to be free to choose their own form of government, which should be administered by their own citizens, who were to be appointed by the sultan. The allied powers, still professing an entire neutrality, further stipulated to take effectual measures to carry their decree into effect, and sent a powerful combined naval force, under the command of the English Admiral Codrington, into the Mediterranean for that purpose. The proposed terms were acceptable to neither of the combatants. Greece claimed absolute independence; and Turkey, absolute submission.

To a united representation from the ambassadors of the allied powers at Constantinople, requiring the assent of the sultan to their terms of peace, the divan returned a determined refusal, denying their right to interfere in a domestic quarrel between him and a portion of his rebellious subjects. The allies justified their proceedings, on the ground that the contest had arrived at such a stage that it was apparent Turkey could not maintain her authority in Greece; that the piracies consequent on the war were destructive of their commerce in the Mediterranean; that it put in jeopardy the repose of Europe; and that the claims of humanity required them to cause it to cease. The Greeks, though not willing to submit to the terms proposed by the allies, were glad of their interference, expecting that it would embarrass the operations of their enemies. This expectation was soon realized by the destruction of a Turkish fleet of about seventy sail, in the bay of Navarino, on the southwestern coast of the Morea. At the same time a war, commencing between the Russian and Turkish empires, in which the latter was contending for existence, gave the friends of Greece sanguine hopes of her ultimate success. This war having terminated in the complete vanquishment of the Turks, the sultan, in the treaty of peace by which he purchased his own political existence, relinquished all claims on Greece, leaving them at the disposal of Russia, Great Britain, and France. These powers have appointed Leopold, a German prince, son-in-law of George IV., to be king of Greece. This prince, enjoying an independent and dignified retirement, has refused the crown. The affairs of Greece being in the custody of the three allied sovereigns, a republican government is out of the question. To whom the crown

will next be offered, or what *legitimate* will be unwise enough to accept it, is yet a matter of doubt.\*

*First meeting of the 18th congress.* The first session of the 18th congress commenced on the 1st of December, 1823. On the first ballot, Henry Clay was chosen speaker :

For Henry Clay . . . . . 139

For Philip P. Barbour . . . . . 42

The president's message was transmitted on the 2d. It contained matter of unusual interest. Its most prominent feature was the ground taken in relation to a supposed interference by the powers of Europe between Spain and the southern republics of America. It gave a pleasing view of the revenue, commerce, and internal as well as external condition of the United States. As a means of increasing their prosperity, he recommends "a revision of the tariff, for the purpose of affording additional protection to such articles as we are prepared to manufacture, or which are more immediately connected with the defense or independence of the country." On the subject of the further extension of European colonies on the continent of America, he informs congress, that in the discussions with the emperor of Russia in relation to the northwest coast, the occasion had been taken of asserting as a principle in which the rights and interest of the United States are involved, "that the American continents, by the free and independent condition which they have assumed and maintained, are not henceforth to be considered as subjects of future colonization by any European power."

*Tariff.* The subject of so arranging the tariff, as to give proper encouragement to the productions of the American soil and industry, agreeable to the president's repeated recommendations, again occupied a great share of the deliberations of congress. It was almost the only subject before them in which their constituents were deeply interested. Whether a few thousand dollars should be appropriated to defray the expenses of an agent to Greece, whenever the president should think it expedient to send one, a thing which could not then with propriety be refused, was a matter of very little consequence, and though, as was quaintly observed by one of the members, it served to furnish hooks to hang speeches on, in point of expense the requisite sum was much less than the value of the time consumed in the debate.

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\* 1830.

But the framing of a judicious system of imposts, which should give due encouragement to the fruits of American industry, counteract the impositions of other nations, and at the same time, as far as was practicable, operate equally upon all classes and sections, without being oppressive to any, was a work which required much sacrifice of sectional interest, great deliberation, and a spirit of mutual accommodation.

At an early period of the session, the committee on manufactures, of which Mr. Todd of Pennsylvania was chairman, reported a bill, comprising a general revision of the tariff, adapted to the encouragement of American manufactures. In its general features, it resembled the bills which had heretofore been under discussion for several sessions; and again awakened those opposing interests, and sectional feelings, which had heretofore prevented their passage. Many of the speakers adopted the utopian principle, of leaving business to regulate and protect itself. The general arguments, so often brought into view on this subject, were reiterated. Every article comprised in the bill, was examined with great accuracy, and in all its bearings; and found its supporters and opponents in different sections. The agricultural and manufacturing interests in the east and the west were united in support of the principles of a protecting tariff, and constituted a small majority in both houses. The commercial and navigating interests of the north, joined with the large planters of the south, constituted a powerful, intelligent, and persevering minority, opposed to any tariff, except for the purposes of revenue. After a discussion of ten weeks, the final question was taken on the passage of the bill, in the house of representatives, on the 18th of April, ayes 107, noes 102, absent 2. With considerable amendments, not affecting the principles of the bill, it passed the senate, ayes 25, noes 22.

*Woolens.* The most important article in the bill, was that respecting woolens. In the discussion, it appeared that goods manufactured from this material, to the amount of eight millions of dollars, were annually imported from Great Britain: that she refuses American bread stuffs, and every article from the United States, which her soil, or the labor of her subjects can produce. That the climate and soil of the United States is adapted to the growing of wool, in quantity and quality sufficient for the consumption of the whole population. That they have a decided advantage over their rival in water power, and have skill and capital

sufficient, if called into operation by proper encouragement, for a full supply. The result was an ad valorem duty on this article, sufficient, if honestly collected, in the then present state of the British manufacture, to insure success. But English policy, with its accustomed ingenuity, soon found means to defeat the object. The duty upon fine foreign wool, from which the British cloths were principally made, was reduced to a nominal amount, and the goods sent to America invoiced much below their cost. From the combined operation of these causes, the American woollen manufacturer soon found himself unaided by the tariff of 1824.

*Massachusetts claims.* By a special message from the president, the Massachusetts claims were again brought before congress. At the commencement of the late war, that state contained about one third of the tonnage of the United States, and six hundred miles of seaboard, on which were numerous flourishing towns, in a perfectly defenseless state. The regular troops were ordered to the Canadian border, for the purposes of conquest. By a singular, and unfortunate exposition of that part of the constitution which relates to the powers of the president over the militia, adopted by the state authorities, the militia were withheld from the control of the general government, and the commonwealth left unprotected, except by its own exertions. Hence arose a debt of more than a million of dollars, in defense of the sea board of Massachusetts. These expenses were necessary, and aside from the constitutional question involved in their origin, they were of a meritorious character, and most of them stood on as high ground, as those incurred by other states for similar objects, which had been allowed by congress, and of which Massachusetts had paid her proportion. A change in the political character of that state, had assimilated its government to that of the union, and restored it to the fellowship of the American family. Its legislature had explicitly renounced the obnoxious principle which occasioned the controversy. Under these circumstances, the president recommended to cast the mantle of oblivion over the political transgressions of that state, and make provision for the settlement of her claims, upon the same principles that those of other states had been settled upon, without reference to the constitutional question, which had hitherto prevented their allowance. During the period of this dispute respecting the militia, Mr. Monroe; as acting secretary at war, had the principal

conducting of the controversy, on the part of the general government, and managed it with great talent. He was now found to be one of the first to overlook the errors of his political opponents. His charity on this subject was much in advance of that of the legislature. No vote in either house, could be obtained for the allowance of the obnoxious claims.

The subject of establishing a uniform system of bankrupt laws, was again brought before congress. In the house of representatives, it was referred to the committee on the judiciary, who reported, that it was inexpedient to legislate upon the subject.

*Imprisonment for debt.* In the senate, a bill passed, entitled an act to abolish imprisonment for debt. It provided, that no bail or other surety should be required of the defendant to hold him to trial on any process issuing from the United States courts, unless upon a suggestion to be made at the time of issuing the process, verified by affidavit, and proved on the return of the writ, that the defendant was about to withdraw himself, with his property, from the state; and that no execution, or other final process in civil suits should issue against the body of the debtor, except upon a like suggestion, or on an allegation of the fraudulent concealment of property, on which issue might be taken, and trial had before the court having jurisdiction of the cause.

*Origin of the bill for its abolishment.* This bill had its origin in the pecuniary embarrassments of the west, subsequent to the war. Those inland states, though fertile beyond comparison with the east, in the production of almost every article necessary for human sustenance, were without a staple which would bear the expense of transportation to a distant market, and yield a cash return. In the early stages of their settlement, emigrations were abundant; the new comers brought specie, and afforded a ready market for the surplus produce of those who had gone before them. As the population increased, emigrations diminished, specie became scarce; that which had been previously brought was rapidly returning to the east. Pecuniary embarrassments to a great extent were felt by many persons of real wealth, who, when money was plenty, had incautiously contracted debts without foreseeing the consequences. There was at this period no sound circulating medium in the west, in any measure adequate to the wants of the citizens. Recourse was had to the establishment of numerous banking institutions, most of which were bottomed, not upon any

specie capital actually paid in, but upon the private notes of the stockholders, furnishing no grounds for any safe system of banking operations. Banks which meant to maintain their credit, and be what they professed, could do but very little business; those which put their credit at hazard by extensive discounts soon found themselves obliged to stop payment. A circulating medium by which commerce could be carried on, and debtors enabled to meet the demands of their creditors, was not supplied by these institutions. On general principles, regulating the intercourse of society, nothing can satisfy the demands of a creditor, but the payment in specie of the amount of his debt; or the delivery of some equivalent which he is willing to receive. While these principles were rigidly adhered to, property was constantly passing from debtor to creditor, regulated in amount, only by the conscience of the latter.

*Relief laws of Kentucky.* To relieve her citizens from their pecuniary embarrassments resulting from such a state of things, Kentucky, the eldest sister of the west, undertook an experimental essay, in legislation on the subject of the relations between debtor and creditor. The debtor interest became predominant in the legislative and executive branches of the government. It found itself trameled by that clause of the constitution, which provides, that "no state shall emit bills of credit, or make any thing but gold or silver coin a tender in payment of debts;" and by an intelligent and independent national judiciary, competent to pronounce any law invalid, which should infringe upon the principles of that instrument. Under the denomination of relief, or as they were more familiarly called stop laws, a system of legislation was adopted, calculated to release the debtor from the obligation of his contract, or enable him for a long period to evade payment. A bank was established, in which the state was much the largest stockholder, and of which it had the direction, without a specie capital, authorized to make loans on landed security for long periods, and to issue bills promising to pay the amount specified on the face of them, on demand, with no expectation of a fulfilment, or provision for that purpose, other than what might be obtained from the redemption of the mortgages, or sale of the property at some future period. In this scheme, debtors found a ready mode of obtaining money of a certain character. It was evident, however, that this was, to every practical purpose, only a renewal of the old paper money system, which had long since, by universal consent, been abandoned;

and that, in short, it was nothing less than an ingenious attempt to evade the constitution. The bills, answering no purpose for remittance, rapidly depreciated; creditors refused to receive them, and debtors found themselves unrelieved. Their credit was attempted to be sustained by a law, providing, that in all cases where a creditor refused to receive bills in satisfaction of a judgment, execution should be suspended on certain terms for two years. Another provision was likewise made, that when property was taken upon execution, it might, at the option of the debtor, be appraised, and if it could not be sold for two thirds of its appraised value, no sale was to be made. The national judiciary uniformly decided that laws of this character were unconstitutional, as operating to impair the obligation of contracts. The supreme court of the state, notwithstanding the popular excitement, with an independence honorable to their character, conformed to this decision. Debtors were still unrelieved. The judges, holding their offices by the state constitution, by a permanent tenure, were not removable at the pleasure of the legislature.

*New organization of their courts.* Another experiment of a singular nature was resorted to. The legislature repealed the judiciary act under which the court was constituted, and immediately re-enacted another, and appointed a new set of judges. The old court denied the constitutionality of this proceeding, claimed the right of exercising their judicial functions, and refused to recognize the existence of the new. The latter also entered upon their duties, denying the existence of any other supreme court than their own. Two supreme courts, each claiming exclusive jurisdiction over the same matters, and denying the right of the other, sitting at the same time and place, produced a scene of confusion readily conceived and greatly to be deplored.

*Proceedings in the United States courts.* In the mean time, the United States courts proceeded in their regular course. All cases within their jurisdiction, embracing all of any considerable magnitude, where the plaintiff was a foreigner or citizen of another state, were brought before those tribunals. Judgments were rendered and executions issued against the bodies and property of debtors in usual form, according to the provisions of the United States judiciary act of 1792. Nothing but specie payment, or the imprisonment of the debtor's body could satisfy these judgments. No stop laws of the state impeded their execution. The debtors, in these suits, were generally the retail merchants



of Kentucky, the middle men, between the wholesale dealers in the east, and the consumers in their own neighborhoods, and while their bodies and property were exposed to execution on the judgments of the United States courts, the state laws prevented the collection of debts due them from their customers, the actual consumers of the goods which were unpaid for. Matters progressed in this downward course, involving the citizens of Kentucky in still greater difficulties at every stage, until a redeeming spirit in the people produced a change in their representation, which effected a reinstatement of the old court, and a repeal of the stop laws.

The neighboring states watched the progress of this system of legislation in Kentucky with great interest, and anxiety. Its result taught them to avoid its evils—to submit to temporary inconveniences, which time and a rigid economy will always cure, rather than hazard the experiment of unsettling the principles on which commercial intercourse is based. During the early stages of this scene in Kentucky, and for the purpose of affording relief to a numerous class of citizens affected by judgments of the national courts, Mr. Johnson, a senator of that state, introduced the bill in question, and labored with untired assiduity in its support, for a number of sessions, and finally procured its passage through the senate. The house of representatives determined that they would not change the mode of collecting debts coeval with the existence of the states, nor interfere with the existing relations between debtor and creditor.

## CHAPTER XVI.

Presidential election of 1825—Different modes of designating the chief magistrate in different countries—Original provisions of the American constitution—Amendment in consequence of the election of 1801—Attempts to amend the constitution in the congress of 1823-4—Five candidates presented—Their claims—Mr. Calhoun withdrawn—Organization of the parties—preparation for the contest—Number of newspapers in the United States—Their influence—Different modes of choosing electors—Proceedings of New York—Congressional caucus—Its result—State of the electoral votes—Candidates returned to the house—Preparations for the caucus—Mr. Clay's conduct impeached by Mr. Kremer—Brought before the house, and a committee of investigation appointed at the instance of Mr. Clay—Their proceedings and report—Joint meeting on the 9th of February—State of the votes in the house—Mr. Adams elected—Inauguration—Formation of the cabinet—Mr. Adams' course in relation to appointments and removals—Second meeting of the 18th congress—Message—Progress of the United States under Mr. Monroe's administration—Proceedings of congress—Mr. Johnson's bill to abolish imprisonment for debt—Debates on the Cumberland road bill—Claims of the west on the subject of internal improvements.

*Presidential election of 1825.* The designation of a person to administer the government for the presidential term, commencing the 4th of March, 1825, early in Mr. Monroe's last period, began to be the subject of much discussion. In all well regulated governments it has become a settled axiom, that the executive branch must be "one and indivisible." Under whatever title this power is exercised, whether that of president, king, consul, or emperor, the trust is of the highest magnitude.

*Different modes of designating the executive.* In the governments of the eastern continent, some fortunate individual in each has been able to secure to himself, and his posterity the enjoyment of this power. The eldest son, however inferior his capacity, has usually succeeded to the throne of his father, with as little controversy as the child comes to the inheritance of any other patrimony. In some instances, the reigning prince has been allowed to appoint a successor by will, and dispose of the territory and subjects of the nation, in the same manner that individuals are allowed to dispose of their acquisitions. In the few instances where the elective principle has been attempted, it has been

attended with such confusion and bloodshed, that the people have been glad to resort to hereditary succession. They have considered it as one of the greatest calamities to have the right of succession become doubtful, so as to call upon them to exercise any powers in relation to the choice of a national chief. In European governments, experience has demonstrated that the elective principle is impracticable. Recent events in the republics of the south seem to confirm the same opinion; one military chief after another, in rapid succession, and at the expense of the blood of his fellow-citizens, is placing himself at their head. Far better would it be that the executive should be permanent, and hereditary, than that the nation should periodically go through scenes of bloodshed, and domestic war, or be agitated by a constant succession of intrigues between rival aspirants to the office.

The rapidly increasing wealth and population of the United States, their rising importance in the view of Europe, and the great patronage attached to the office of chief magistrate, render each successive election more and more a matter of interest. Thousands of individuals, expecting more or less personal emolument from the elevation of their favorite chief, fall into his ranks, and bring to his aid a numerous train of dependents. Thousands of others, for the mere purpose of making themselves of consequence in the scale of society, enter the lists. Notwithstanding all the evils incident to a popular election of a chief magistrate in any form, hereditary accession, or even a tenancy for life, is hostile to the first principles on which the American government is based, and is not to be resorted to until all other modes have been unsuccessfully tried.

*Original provisions of the constitution.* In no part of their labors did the framers of the constitution find greater difficulties, than in settling the manner of designating the chief magistrate. It finally resulted in a mode singular, intricate, and guarded with peculiar caution. Electors were to be chosen in the several states, and their votes given for two persons, one of whom was to execute the office of president for the ensuing four years, without designating which. The person having the greatest number of votes, so be it, it was a majority of the whole number of electors, was to be the president, and the next highest the vice president. If no one had a majority, or if the highest two had an equal number, the house of representatives, voting by states, were to elect one of the two for president, and the next highest was of course to be vice president. One object of the lat-

ter office, to which, except in case of the death of the president, few duties were assigned, was to present as a successor, some prominent character whom one set of electors had judged competent to execute the office. Fortunately for the happiness and repose of the nation, at the commencement of the government, there was one candidate, and only one, who united all hearts in his favor. By the unanimous voice of his fellow-citizens, he sustained the office for two successive terms, without any thing deserving the name of opposition. At the third election, the distinguished statesman whom two previous sets of electors had declared to be competent to the office, succeeded by a full vote. The election of 1801 presented a novel and curious scene. A party had risen up, and had become a majority of the nation, with a very high, honorable, and popular leader at their head, opposed to the administration of the elder Adams. To insure success, they were obliged to associate with their favorite character a man of great talents, but one in whose integrity few had confidence, and whom none wished to be president. Expecting a close vote, union became necessary, and the electors not being allowed to designate either for the office, Jefferson and Burr had a majority, and an equal number of votes. This brought them both before the house of representatives, with equal claims to the presidency. A scene of contention, remembered only to be regretted, and lasting several days, ensued, which, after thirty-six balloting, resulted in the choice of the people's favorite.

*Amendment.* The hazards to which Mr. Jefferson's election was exposed, in consequence of the equi-vote of Burr, led to an amendment of the constitution, designed to prevent the recurrence of a similar event. One of the first acts of the new administration was an alteration of that instrument, providing that the electors should designate each person to his respective office, and in case no one had a majority, the house of representatives, voting by states, were to choose one from the highest three to be president. This amendment, made at a period of high party excitement, has been found to be attended with inconveniences at least as great as those it was designed to prevent. It has diminished the respectability of the vice presidency, reducing it to a mere make-weight in the presidential canvass. But its most objectionable feature is, that it greatly multiplies the chances of bringing the election into the house of representatives, an event which all experience

proves ought, if possible, to be avoided. Such an occurrence gives the state of Missouri, with her single representative, an equal voice in the decision of an interesting question with the state of New York, with her million and a quarter of inhabitants, and thirty-four representatives. In every contested election, it has been found that the relation between the successful candidate and the active instruments of his elevation, is of that intimate and indissoluble nature, as invariably to lead to an expectation of reward on the one hand, and its bestowment on the other; and this must be expected to continue as long as human nature retains those imperfections which render government of any sort necessary. Hereby the republic receives detriment. Persons find their way into important public stations, which, but for their exertions in the cause of a successful chief, they would never have attained. In the congress of 1823-4, two efforts were made to remedy the evils expected to result from this source. One, by a resolution introduced by Mr. Mills into the senate, for an amendment of the constitution, the object of which was to restore the original process of electing a president: the other, a resolution introduced into the house of representatives by Mr. M'Duffie, from a committee appointed on the subject, providing that electors should be uniformly chosen by the people in districts; and that if, on counting the votes, it should be found that no one had a majority, the names of the highest two should be returned to the electors, for one of which they were again to vote, and the person having the greatest number to be president; and only in case where, on such second ballot, there was an equi-vote, should the election devolve on the house of representatives. These resolutions, and sundry others, having the same object in view, underwent various and animated discussions, and were finally negatived.

Although there was no limitation contained in the constitution, on the subject of a re-election, it had in practice become a settled principle, that no person should hold the office for more than two terms. But for this practice, the popularity of Mr. Monroe's administration, the general prosperity of the country, and the difficulty of concentrating public opinion on a successor, would probably have insured him a third term.

*Candidates for 1825.* Many statesmen of the first order were on the stage at this period, but no one so elevated above his fellows, as to attract the general attention. After considerable vibration of public sentiment, five candidates

were presented for consideration: Adams in the east; Crawford and Calhoun in the south; Jackson and Clay in the west. Each had held distinguished stations in the government, and discharged their duties in harmony with each other, and with general approbation. Either of them were probably competent to execute the high office to which they aspired. The old division of parties, which, during its existence, presented but one candidate of each, had long since ceased; and public attention was now directed to five, all of the same party, and all agreeing upon the general principles on which the government should be administered. The old puritanic republican maxim, that public officers are the servants of the people, and are to discharge their duties solely with a view to their good, has long since been exploded, and, in practice, given place to the modern principle, that office is to be bestowed as a reward for previous service, and to be made subservient to the benefit of the successful candidate and his friends. Hence, in the present contest sprang up a furious zeal, among the advocates of the aspirants, without even the pretense of any great public object, in support of their claims.

*Adams.* The office of secretary of state, having under its direction the department of foreign affairs, necessarily leads the incumbent to an intimate acquaintance with the general system of European and American policy. It is on many accounts the best school for the presidency. The first talents within the power of the president to command, consistent with the principles of fidelity to the party who elected him, have been selected for the office. In every instance, with the exception of the first two presidents, a former secretary of state has been elected. Mr. Adams had sustained this office, and discharged its duties, with great reputation, during the presidency of Mr. Monroe; his talents were unquestionably of the first order. He had long resided at foreign courts, and was intimately acquainted with their policy. His friends, and all who held or expected office under him, brought forward his claims with great zeal and confidence.

*Jackson.* The state of Tennessee, as early as the year 1822, by a legislative resolution, presented their favorite general. They urged in his favor the important military services he had performed, and the honor which thereby redounded to the country. The southwestern states, who had been particularly benefited by his achievements, it was expected, would unite in his support. The influence of the

army, with whom he was a favorite, was calculated upon with certainty. He was considered as the second choice of the west, and should any event put Mr. Clay's pretensions aside, his success was viewed as almost certain.

*Clay.* The rapidly increasing population, wealth, and importance of the western states, and the fact that Virginia and Massachusetts had hitherto always had the honor of furnishing a president, gave to the people of the west high claims to the office. In the person of Mr. Clay, they presented a candidate above all exception, and one whose talents and qualifications had commanded universal respect. Their local interests, they apprehended, would be greatly advanced, by having a president from among themselves. The great object of internal improvements, of which Mr. Clay was a decided advocate, was of peculiar importance to the west, to facilitate their communications with the gulf of Mexico, and the Atlantic states.

*Crawford.* Mr. Crawford, of Georgia, had been a distinguished member of the cabinet for the last ten years. At the election of Mr. Monroe, in 1817, he stood next to him in the public estimation, and, in a congressional caucus, obtained almost an equal number of votes; and an understanding existed between the friends of each, that the unsuccessful candidate should be the successor. He had represented the American government at the court of France, and supported its rights with dignity, had superintended the affairs of the treasury at a critical period with great ability, and repelled the attacks of his enemies, and thrown them back with a destructive energy. The south, an old and distinguished section of the union, had high claims to the office, and presented in him a highly qualified candidate.

*Calhoun.* Mr. Calhoun, of South Carolina, a much younger man than either of his competitors, had been early elected a member of congress, from the district of Charleston. He soon became a distinguished member of that body, and on the accession of Mr. Monroe, was placed at the head of the war department. This station he also filled with high reputation. He came forward at first, with considerable expectation. But on canvassing his claims, and comparing them with the other candidates, it became evident that he could not be chosen: the impolicy of dividing the southern interest, became evident; and Mr. Calhoun's friends consented that his pretensions should be razed down, as was quaintly expressed, to the vice presidency. They generally fell into the ranks of General Jackson. In

this manner the campaign opened. Four candidates of high standing, of the same political cast, with nearly equal pretensions, and each with a numerous train of followers, entered the lists. That portion of the American people who had no local or personal prejudices or partialities, and no expectation of particular favors, in the outset felt but little interest in the event.

In their opinion, government has been so long in operation, and the principles upon which it must be conducted so well settled, that it might now be kept on its course, without the aid of those transcendent talents, which were requisite at its commencement. Either of the candidates, as well as hundreds of other citizens, were competent to manage the helm of the political ship in a perfect calm. There are two reasons, however, which lead the American people anxiously to wish that the supreme executive and the cabinet might be composed of the first order of talents: one, that in their intercourse with foreign nations, diplomatic ingenuity might be met with at least equal ability, and that their state papers might bear a comparison with those of any other nation; the other, that it might appear that the American mode of designating the chief magistrate is better calculated to call into operation the talents of the nation, than the European. In the latter, distinguished abilities are not looked for, and are seldom found in the chief. But the hereditary monarch has the whole nation from which to select his cabinet; is not looking forward to the fearful period when his powers must cease, or be renewed by a popular election, and has no inducement to form his council or shape his measures with reference to such a period. Under such favorable circumstances, he usually has wisdom enough to make a judicious choice, and inclination to yield the management of public affairs to their guidance. Hence the cabinet, the judiciary, and most of the important stations in the British government, have for centuries, for the most part, been filled with able officers, while but a small portion of talent has been found in their chiefs. In practice it has been demonstrated, that in republics, the supreme executive, obtaining his office by a contested election, has only the instruments of his elevation from which to make a choice. This usually excludes one half of the national talent. The cabinet and all its measures must be shaped to the period of a re-election. With all these disadvantages, incident to every republic, the American people look back with pleasure and a beco-



ming pride on a succession of able ministers since their government commenced its operation.

*Manner of supporting their claims.* One of the first objects of the combatants in this political campaign, was to secure the co-operation of as many of the presses as possible, for their respective candidates. At this period, there were six hundred\* different newspapers in the United States, in circulation among a million and a half of electors. With few exceptions every elector reads one or more of these vehicles of information, and usually forms his opinion of public men from that source. Their influence is powerful and controlling; and in an electioneering contest, it is to be secured in various ways, by large additions to their subscription lists, for gratuitous distribution; and by assurances that they shall have the printing of the public laws, and other patronage of the government, usually bestowed on the presses whose favorite candidate had been successful. As the period drew nigh, by the operation of these causes, and the indefatigable exertions of the zealots of the respective candidates, the people were brought to take sides in the contest. In all parts of the union, various assemblages of citizens sometimes convened for the express purpose, sometimes met for other business, and often fortuitously brought together, expressed their sentiments by balloting for the candidates. In one or two instances, the most zealous partisans agreed to settle the question by single combat. In these contests some blood has been shed, but no lives lost.

*Different modes of choosing electors.* Another subject of considerable importance and on which public opinion was divided, was the mode in which electors should be appointed. The constitution provides in very general terms, that each state shall appoint their electors in such manner, as the legislature thereof shall direct. Under this clause, three modes have been adopted. One by districts, a second by general ticket, and a third by the legislature. In those states where the electors are chosen by districts, each portion of their citizens had its proportionate influence in the election; but it often happened that the different candidates would have majorities in different districts, in consequence of which the vote of the state would be neutralized. One or the other of the remaining modes, was therefore more

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\* Postmaster general's report

usually adopted, which gave the state in all instances, except that of New York, in this election, a united voice.

*Proceedings in the state of New York.* In that state a law had been passed some time previous to 1824, directing the appointment of electors to be by joint ballot of both houses of the legislature. In January, 1824, a bill was introduced into the house of representatives, and passed by a considerable majority, vesting the choice in the people. This bill was negatived in the senate by a vote of seventeen out of thirty-two. This dispute between the different branches of the legislature, occasioned great excitement, both among themselves and their constituents. As it was necessary to make provision, by a joint act of both houses, for the meeting of the legislature in November, for the choice of electors, it was apprehended that they would disagree upon that subject also, and the vote of the state, amounting to one seventh part of the union, be lost. After a severe contest, however, the necessary provision was made. In the course of the summer, the governor apprehending that the public sentiment was decidedly in favor of a choice by the people, and that there probably might be a change of sentiment in some of the senators, called a special meeting of the legislature in August, to reconsider the subject. The seventeen senators, however, adhered to their opinion, declared that there was no extraordinary occasion warranting the special meeting, and refused to consider the subject, or transact any legislative business, and adjourned after a fruitless session of five days. At the subsequent meeting in November for the choice of electors, the senate were in favor of Crawford electors, and the house of representatives, of Adams. After a stormy contest of several days, the result was the appointment of twenty-six electors who voted for Adams, five for Crawford, four for Clay, and one for Jackson.

*Congressional caucus.* The question whether there should be a congressional caucus on the subject of the presidential election during the first session of the eighteenth congress, became a matter of deep interest to the candidates, and to the members who were expectants of office under each. Public sentiment had expressed itself decidedly against the measure. The legislature of Tennessee had denounced it as a flagrant violation of the right of suffrage, and kindly taken the business of nominating a president into their own hands. It was found, however, very difficult to overcome that natural propensity which every

one in a greater or less degree feels, to improve every opportunity to his own advantage, and in a manner to give the greatest effect to his own exertions. Zeal in favor of a successful candidate had the expectation of an ample reward. A struggle between these considerations on the one hand, and a sense of duty and submission to public opinion on the other, produced much diversity of sentiment on this question. At length, after much hesitation, a notice appeared in the *National Intelligencer* of the 6th of February, signed by eleven members of congress, inviting the democratic portion of that body to meet in the representative's chamber on the 14th, for the purpose of recommending candidates for the offices of president and vice president of the United States. In the same paper there appeared an opposing notice, signed by one member from each state, giving information, that, at the request of their respective colleagues, they had made inquiry, and were fully satisfied, that of the two hundred and sixty one members composing the present congress, one hundred and eighty-one deemed it inexpedient, under present circumstances, to hold a caucus on the subject. On the evening of the 14th of February, agreeable to the notice of the eleven, sixty-six members assembled in the representatives' chamber, and gave sixty-four votes for Mr. Crawford, two for Mr. Adams, one for Mr. Macon, and one for General Jackson, for president; and fifty-seven for Albert Gallatin, for vice president. To make out Mr. Crawford's votes, the proxy of Mr. Ball, who was absent from indisposition, and that of Mr. Tatnell, of Georgia, who had been elected a member of the eighteenth congress, but had never taken his seat, were counted.

The next object was, to legalize this caucus, and render its proceedings acceptable to the people; for this purpose, a committee of thirteen were appointed to prepare and publish an address to accompany the nomination. In this publication, they lament the absence of so large a portion of their republican brethren; they justify their proceedings on the ground of long usage, and the success which had usually attended the measure; they insist much on the importance of keeping up old party distinctions, and are lavish in praise of their favorite candidate; and although they admit that federalism is nearly extinct, yet they would make the people believe that there is great danger to be apprehended, that a Phoenix may arise from its ashes, to take advantage of democratic dissensions, and introduce confusion into their ranks.

*Private character respected in the canvass.* Much to the honor of the combatants in this contest, private character was less assailed than was to be expected, where so great an object was at stake. Each seemed to be willing to stand on the merits of his own character, rather than on the ruins of his adversary. There were, however, some exceptions to this principle. Mr. Crawford's official conduct as secretary of the treasury, in relation to the western banks, was violently assailed, and the attack triumphantly repulsed. General Jackson's aberrations from the strict line of the constitution, in several of his military operations, were brought forward, and urged with great force, to show the hazard of placing the supreme power in the hands of a military chief. To evince the danger which democracy might have cause to apprehend from his elevation, the private correspondence, before referred to, between him and Mr. Monroe, on his first election to the presidency, was ferreted out and published, in which the general recommends the best talents in the nation, without distinction of party, to compose his cabinet. And although, in his opinion, the leading members of the Hartford convention ought to have undergone a military execution, which he thinks would have been the case, had the meeting been held within his military district, he was, notwithstanding, of opinion that the elevation of Mr. Monroe afforded a fit opportunity to cast the veil of oblivion over past errors, to take a straight forward course, and to avail himself of the talents and patriotism of the whole community, for the general good. A small pecuniary transaction between Mr. Adams and one of the banks of the district of Columbia, was brought forward to impeach his integrity, but without success.

*State of the electoral votes.* In the electoral colleges the votes were for Jackson ninety-nine, being a majority of eleven states; for Adams eighty-four, a majority of seven states; for Crawford forty-one, three states; and for Clay thirty-seven, also three states.

According to the provisions of the constitution, the election, from the highest three candidates, devolved on the house of representatives, the votes to be taken by states, each having an equal voice, and a majority of all the states necessary to make a choice. The ill health of Mr. Crawford, and his number of votes compared with the highest two, placed him out of the question; and for weeks before the ultimate canvass, Jackson and Adams were considered as the only real candidates.

The state of the electoral votes was known very soon after the commencement of the session, and very little else could be done, except to prepare for the canvass in the house of representatives. The candidates were all on the ground, and looking with great anxiety to the eventful 9th of February. Three states were represented each by a single member, who, instead of composing one two hundred and thirteenth part of the house, as in ordinary cases, in the decision of this important question, represented one twenty-fourth part of the union, and his influence and power was increased almost in a ten-fold proportion. In such a state of things, human nature must have arrived to an unexampled degree of perfection, to have entirely excluded all sinister considerations from the breasts of the candidates, and those who were to be the instruments of their elevation.

*Canvass in the house of representatives.* The superior number of General Jackson's electoral votes, the number of states in which he had a majority, and the general belief that he was the second choice of the west, seemed to insure his election. To make his case the more certain, the legislature of Kentucky, when they saw their favorite candidate out of the question, passed a resolution by a majority of nearly seven eighths, requesting their delegation to give the vote of that state to Jackson. The general's cause remained in this promising situation until nearly the close of January, when his friends found, to their great surprise, that the western delegation would support Mr. Adams. This section, by uniting with the south, would unquestionably bring in General Jackson, and by joining the east, would as certainly effect the election of Mr. Adams. In this manner, Mr. Clay held the destinies of the nation in his own hands. The course of reasoning adopted on this occasion, aside from the intrinsic merits of the question, was, that by the election of Mr. Adams, the department of state would become vacant, and would probably be conferred on Mr. Clay, and would be the proper stepping stone to the next presidency. The west would then be fairly entitled to the office, and would have right to claim the support of the east. On the other hand, should General Jackson be chosen, there will be no vacancy in the office of secretary of state; and from what was then supposed to be the uncompromising character of the general, it was not expected that he would make one. There could be no well grounded expectation that the immediate successor of General Jackson would be

taken from an adjoining state ; his elevation, therefore, must put an end to the prospects of Mr. Clay in relation to the next presidency. We will, therefore, say his friends, support Mr. Adams, under a firm belief that he will be selected to fill the department of state, and have the support of the east, at a future period, for the chief magistracy.

The peculiar situation of Mr. Clay, who, instead of being before the house as a candidate himself, had the power of deciding whether Jackson or Adams should be president, rendered him an object of extreme suspicion. Every word or look of himself, or his friends, was narrowly watched, or construed according to the wishes of the anxious observer. An anonymous publication appeared in a Philadelphia paper, called the *Columbian Observer*, purporting to be a letter to the editor, from a member of the Pennsylvania delegation, stating that a corrupt bargain had been made between Mr. Clay and his friends on the one part, and Mr. Adams on the other, that, if the former would support the latter for the presidency, in case of a successful issue, Mr. Clay should be secretary of state ; and that similar overtures had been made to General Jackson, and indignantly rejected, and expressing the apprehensions of the writer, that on this account the election would terminate in favor of Adams.

Mr. Clay answered it by a publication in the *National Intelligencer*, declaring his belief that the letter was a forgery, but if genuine, pronouncing the member, whoever he might be, "a base and infamous calumniator, a dastard, and a liar." This was replied to by a publication in the same paper, under the signature of George Kremer, one of the Pennsylvania delegation, who, without expressly admitting himself to be the writer, held himself responsible for the correctness of the statements.

On the 3d of February, Mr. Clay rose in his place, and after stating the facts, and requesting that a committee might be appointed to investigate the truth of the charges, to the end that if guilty he might be punished, and if not that his character, and that of the house, which he considered as implicated in continuing him as their speaker under these aspersions, might be vindicated, resigned the chair to Mr. Taylor of New York during the discussion. Mr. Forsyth moved that the subject be referred to a committee to be chosen by ballot. Mr. Kremer avowed himself willing to meet the inquiry, and abide the result. After considerable discussion, Mr. Forsyth's resolution was adopted on the

following day, and a committee of seven appointed. Soon afterwards they addressed a letter to Mr. Kremer, informing him of the time and place of their meeting, for the purpose of receiving any evidence or explanations he might have to offer on the subject. In a reply of considerable length, Mr. Kremer denied their jurisdiction, and declined appearing before them, either as an accuser or a witness, or for any purpose connected with their commission. No person appearing before the committee in relation to the business, they reported the fact to the house, and were discharged.

Many of Mr. Clay's friends thought that his extreme sensibility led him unnecessarily to trouble the house on this occasion. Until this proceeding gave consequence to the publication, it had appeared only in one paper, published in Philadelphia, not of any great celebrity—had been seen by few—was a weak and badly written production, and would have passed off as one of the short-lived slanders of the day. In the present state of the press, if a public functionary undertakes to seek out, contend with, or reply to, every slanderous publication, he will find little time to devote to the service of his country.

These circumstances led to a developement of the course which Mr. Clay took in relation to the presidential election, after it was known that he was not one of the three returned to the house; by which it appeared that he considered General Jackson, though a distinguished military officer, as destitute of the requisite talents and qualifications for the presidency. That in his opinion it was hazardous to the liberties of the country to elevate a person to the chief magistracy, the duties of which are all of a civil nature, merely because he had been a successful general. That on the other hand he considered Mr. Adams as possessing in a high degree the requisite qualifications; that his talents were of the first order, and his life had been spent in the proper school for the office. With these views, it appeared that Mr. Clay had early, decidedly, and uniformly expressed his determination to support Mr. Adams.

On the 9th of February, at noon, the president of the senate, accompanied by that body, attended in the representatives' chamber, and having appointed tellers from each house, and opened the votes and caused them to be counted, declared the number of votes for each person to their respective offices, and the result to be that there was no choice of a president; and that John C. Calhoun was chosen vice

president for the ensuing term; and after remarking that the remaining duties in relation to the choice of a president devolved on the house of representatives, he, with the body over which he presided, withdrew.

The house immediately divided itself into state sections, and proceeded to the choice of a president. On the first ballot, Adams had the votes of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, Maryland, Kentucky, Ohio, Louisiana, Illinois, and Missouri—13. Jackson had the votes of New Jersey, Pennsylvania, South Carolina, Tennessee, Indiana, Alabama, and Mississippi—7. And Crawford had the votes of Delaware, Virginia, North Carolina, and South Carolina—4. The votes of the representatives, taken individually, were eighty-seven for Adams, seventy-one for Jackson, and fifty-four for Crawford. Mr. Adams, though not having a majority of the votes of the electors, or of the house of representatives taken individually, yet having a majority of the states, was declared to be duly elected.

*Inauguration.* As had been usual on the occasion of the coming in of a new administration, the senate was convened on the 4th of March, by special call of the president going out of office, for the purpose of acting upon such nominations as the new chief magistrate should make. The inauguration took place on that day with the accustomed ceremonies, the only essential part of which consisted in the president's taking the oath, before some proper magistrate, "faithfully to execute the office, according to the best of his ability, and to preserve, protect, and defend the constitution of the United States." As there is usually a large collection of citizens to witness this transaction, an inaugural address is expected. Mr. Adams delivered one of an hour's length, highly complimentary to the administration of his predecessor, professing to follow in his steps, and pledging himself to devote his talents to the good of the nation.

*Principles of forming a new cabinet.* The formation of a new cabinet, and the course to be pursued by the president in relation to rewarding his friends with the offices in his gift, were subjects of intense interest with the multitudes who had been active in his elevation. For wise reasons, the constitution has vested the power of appointment in the president, with the approbation of the senate, and fixed the term of office, except in the single instance of the judiciary, to be during his pleasure. This vast power and patronage is thus deposited, with an expectation that it will



be exercised for the good of the people. They require at the hands of the chief magistrate, that he call forth the best talents, adapted to the discharge of the duties of the office to which the appointment is made; that the power of removal be not exercised in a whimsical, capricious, or revengeful manner; and that these powers be not prostituted to subserve the private views, or reward the particular friends, of the man on whom the duty is devolved.

Most of the important offices in the gift of the executive require the whole attention of the incumbent. Many times he is obliged to make great sacrifices, and give up lucrative private employments, which cannot be resumed at pleasure, to devote himself to the public service. At best, it is a humiliating circumstance to a high minded man, to hold an office on which he must depend for a subsistence, at the will of another, even when he supposes that the power of removal will be exercised with discretion. Some experience, at least, is necessary to the due discharge of the duties of public office, as well as in the other concerns of life. These considerations seem to demand of the executive, great caution in the exercise of this high prerogative. They require the continuance in office of faithful, intelligent, and talented public servants, so long as they discharge their duties well. The main reason for vesting the power of removal in the president, with no other limitation than that of his pleasure, was, that where the incumbent was found to be incompetent or unfaithful, he might be discharged without a public inquiry. Where the executive, deviating from this plain course, adopts the principle of making vacancies for the purpose of rewarding the exertions of particular friends, or of gratifying a hostile spirit towards political opponents, he can expect no honorable man to accept an office under his administration. He must look for public servants among parasites and sycophants, who, calculating upon a short tenure, will make their offices subservient to private views. They commence often without talent, always without experience, and soon leave them to a new set of expectants. A worse state of things cannot be imagined. To such a course, however, bad as it is, a new president coming in by a contested election, is urged by a host of applicants, which requires all the wisdom and firmness of the most exalted character to resist.

*Mr. Adams' course.* Mr. Adams came into office, not in competition with the preceding administration, but with a powerful opposition, and with less unanimity than any of

his predecessors. His own elevation created a vacancy in the office of secretary of state. Mr. Clay, his competitor in the outset, but supporter when the contest was between him and Jackson alone, both from his talents and place of residence, had the highest claims for the appointment. No objection existed, except that it would give countenance to the imputation of a corrupt bargain. Disregarding this, however, Mr. Adams nominated him to the senate, where, after encountering a powerful opposition, his nomination was approved. Mr. Crawford, likewise a competitor, was urged to continue at the head of the treasury department, and on his declining, Mr. Rush, a man of distinguished talents, though opposed to Mr. Adams' election, was appointed. The offices of secretary at war and of the navy, were likewise given to his political opponents; and no vacancies were made for the purpose of bestowing office on those who had been instrumental in his elevation.

*Second session of the 18th congress.* The second session of the 18th congress, according to the provisions of the constitution, commenced on the first Monday in December, 1824. The message contained, in detail, a statement of the foreign relations of the United States, the condition of the treasury, and the state of their domestic concerns. The president remarked that this was the last time he should address the representatives of the nation on a like occasion. The eight years of his administration had been a period of profound peace. Public and private credit had recovered from the shock incident to the termination of a state of war. Upwards of thirty-seven millions of the public debt had been paid. Large sums had been paid out in augmenting the navy, and erecting fortifications, presenting an impenetrable front to a foreign enemy. The Floridas had been purchased and paid for, an acquisition, important in many points of view, and essential to the safety of the southwestern frontier. The nation had rapidly increased in population, wealth, enterprize, and resources; and six new states added to the union. The old party distinction of federal and democratic republicans, which had subsisted from the commencement of the government, had ceased; and a new one sprang up, growing out of attachments to, and expectations of office from, rival candidates for the presidency. The government had gained strength and permanency, had increased in the affections of the people; and the nation, as a whole, presented an aspect highly flattering to its citizens.

No important public acts were passed this session. From its commencement until the termination of the presidential contest, that was the all engrossing subject. The excitement produced on this occasion illy qualified the members for the deliberation necessary to the important business of legislation; and the period between the 9th of February and the 4th of March, sufficed only to pass the necessary appropriation laws.

Mr. Johnson again introduced his bill into the senate, for abolishing imprisonment for debt, when, after a short discussion it was negatived. The state, which he represented has, in a great degree, recovered from her embarrassments, and rendered the enactment of such a law unnecessary.

In the house of representatives, a motion to make an appropriation of one hundred and fifty thousand dollars, to extend the great national road from Wheeling to Zanesville, a distance of eighty miles, in the state of Ohio, with a view ultimately to continue it through the states of Indiana and Illinois, to St. Louis, in the state of Missouri, again brought up the subject of internal improvements in all its bearings. It was ably supported by Mr. Clay, and others. The claims of the west to a share of the public revenue and patronage, for the purpose of facilitating their intercourse with each other, and with the east, were presented as of equal importance with those of the Atlantic states, for the protection and safe navigation of their coasts and harbors. After a lengthy discussion, the motion prevailed, and the appropriation was made.

## CHAPTER XVII.

Lafayette's arrival and reception in the United States—Extent of his tour—Reception by congress—Pecuniary grants—Reasons for making them—His departure—Jealousies of the French government regarding his visit—Number and general character of the free colored people of the United States—Their residence in the slave-holding states dangerous to the white population—Conspiracy of the blacks at Charleston—Law of South Carolina respecting the ingress of free negroes—Seizure of part of the crew of the British brig *Marmion*—Proceedings thereon—Resolutions of the senate of South Carolina—American colonization society—Its object and proceedings—Purchase of Liberia, and establishment of a colony of free blacks—Present state of the colony—Its wants—Reasons why it should be patronized by the government—President Boyer's invitation to the free blacks of the United States to emigrate to Hayti—Its result.

*Lafayette's first engagement in the service of the United States.* Next to the presidential election, the visit of Lafayette to the United States engaged the public attention in the year 1824. This nobleman, born in the year 1757, married at the age of seventeen, and possessed of a fortune of forty thousand dollars a year, in 1776, at the age of nineteen, presented himself to the American commissioners, at Paris, and offered his services as a volunteer in the struggle then commencing between Great Britain and her North American colonies. The cause on the part of the latter then appeared desperate. It was viewed by European politicians as a feeble rebellion of distant provinces against their legitimate sovereign, which would soon be crushed, and involve all concerned, in the fate of rebels and traitors. The friends of Lafayette, with united voice, endeavored to dissuade him from the undertaking. His monarch, but little older than himself, who had then just ascended the throne, was unwilling to lose so promising a support, and made him the most flattering offers to remain. The French ministry, secretly favoring the American cause, but not prepared for an open avowal, for the sake of appearances, publicly prohibited his departure. To all his other embarrassments were added the persuasive entreaties of a young and affectionate wife. But the ardent ambition, and thirst for military fame, with which Lafayette was inspired, overcame all obstacles. Dr. Franklin and Mr. Dean were then at

Paris, endeavoring to induce the French government to favor the American cause. One important object with them was, to engage experienced French officers in the service of the colonies. Young Lafayette's proposition surprised them, and the wary policy of Dr. Franklin induced him at first to decline it, urging as an apology the want of means within the power of the commissioners to procure a suitable vessel for the marquis and his suit. To remove this obstacle, Lafayette proposed to procure and equip a vessel, and provide a considerable quantity of warlike stores at his own expense, and engage in the service without pay. The commissioners accepted his offers, and recommended him to congress. Early in the year 1777, at the age of twenty, he presented himself to that body, was received into service, and appointed a major general, but without a designation to any particular post. He served for a considerable time as a volunteer, under the immediate eye of General Washington, until the discriminating judgment of the commander in chief had become fully satisfied of his military talents, when, by his advice, congress intrusted him with an important separate command. Near the close of the year 1778, he returned to France, and by his representations and influence with the French court, obtained a more active and efficient aid to the American cause. The next year he returned to America, and was intrusted with the command of the division of the army opposed to Lord Cornwallis, in Virginia. At the battle of Brandywine, he was severely wounded in the leg, the effects of which are still visible. He bore a conspicuous part at the siege of Yorktown, and soon after its fortunate termination, returned to France.

*His imprisonment in Germany.* In the early stages of the French revolution, the marquis took an active part. Having imbibed his notions of political liberty, in the school of Washington, he was equally opposed to the despotism of unlimited monarchy, and the madness of Jacobinism. For France he wished a limited monarchy, bottomed on the principles of the British constitution. With little of the versatility characteristic of his countrymen, he pursued one undeviating course, which rendered him obnoxious to the reigning powers, as they successively obtained the ascendancy in France. With an unyielding consistency and integrity of character, he was alike the object of suspicion and jealousy with Frenchmen, and the powers combined against them. After five years imprisonment, most of which was entirely solitary, in the dungeons of Magdeburg

and Olmutz, he was liberated, at the solicitation of General Washington, and returned to La Grange, his family mansion in France.

Opposed in principle to the military despotism of Bonaparte, he was ever viewed by him with a jealous eye : on the restoration of the Bourbons, less civil liberty was accorded to the people, than consisted with the views of Lafayette, and he still continued an object of suspicion with the reigning powers. Feared, hated, and suspected by every successive administration, he lived a retired and agricultural life, except when called by the people to take a part in the deliberations of the legislative chambers, where he ever appeared the champion of rational liberty. He entertained, with an enthusiastic hospitality, every American who visited his retirement : from them he learned the stability of the government, and the rapid advances of the United States.

*His visit to the United States.* In 1823, he made known his intention of visiting America. On being apprised of this, congress passed a resolution, expressing their grateful recollection of his services, and requesting the president to offer a public ship for his accommodation. He, however, preferred a private vessel, and took passage in the *Cadmus*, Capt. Allen, at Havre, and arrived at New York on the 15th of August, 1824, accompanied by his son and Mr. Levasseur. His departure from France was noticed by the government with a jealousy as extraordinary as it was unnecessary. No political objects were in contemplation of the general, his sole view being to pay a private friendly visit to the scenes of his early life. The civil and military authorities on the road, and at the place of his embarkation, were prohibited from showing him any respect, or to do any thing to facilitate his departure. Their police and espionage machinery was put in requisition, to embarrass him.

In visiting America, almost half a century from the period of his military career, and at the age of nearly seventy, the general could hope to find few of his former associates in arms. Most of them had paid the debt of nature. A second and a third generation had succeeded. He expected to pass silently and unnoticed among the tombs of his comrades, and as a stranger among their descendants, with now and then the melancholy satisfaction of taking an old fellow-soldier by the hand.

*His reception.* His pleasure was only equalled by his surprise, when he found his approach to the American

shores, hailed by twelve millions of joyous and happy citizens, ready to receive him with open arms, and disposed to impute their present felicity in a great degree to his exertions. History furnishes no record of an individual's receiving so universal and spontaneous a demonstration of respect. At the entrance of New York bay, he was received and conducted to the residence of Governor Tompkins, on Staten Island. On the next day, preparations were made for his reception in the city. Business was suspended, and at an early hour the whole population was in motion, to witness the landing of their respected guest. The ringing of bells, the roar of cannon, the waving of the national flag, and the parade of the military, proclaimed it a day of universal joy. Before twelve, the battery, the wharves, and every place commanding a view of the passage from Staten Island to the city, appeared one dense mass of human beings. The numbers collected, were estimated at least at fifty thousand. At ten o'clock in the morning, a steam ship, manned with two hundred Americans, and decorated with the flags of the various nations whose ships were in the harbor, put off for Staten Island, accompanied with six large steamboats crowded with passengers, and animated with bands of martial music. The committee of arrangements, the officers of the United States army and navy, the general officers of the New York militia, and the committee of the Cincinnati society, proceeded to the island, and received the general on board. The squadron, accompanied by the shipping in the harbor, then moved for the city. At two o'clock the general landed at the battery, and was received by a salute from the military, accompanied by the reiterated cheers of the immense concourse of citizens, assembled to bid him welcome. After resting a few minutes, he proceeded in an elegant barouche, escorted by the dragoons and troops of the city, through Broadway, to the city hall, where he was received by the municipal authorities, and conducted to the city hotel, fitted up for his reception. The mayor\* took him by the hand, and bade him welcome, in the following appropriate and affectionate terms. "In the name of the municipal authority of the city, I bid you a sincere welcome to the shores of a country, of whose freedom and happiness you will ever be considered one of the most honored and beloved founders. Your cotemporaries in arms, of whom indeed but few remain, have not forgotten, and their posterity will

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\* Stephen Allen, Esq.

never forget, the young and gallant Frenchman, who consecrated his youth, his talents, his fortune, and his exertions to their cause, who exposed his life, and shed his blood, that they might be free and happy. They will recollect with profound emotions, so long as they remain worthy of the liberties they enjoy, and of the exertions you made to obtain them, that you came to them in the darkest period of their struggle, that you linked your fortunes with theirs, when it appeared almost hopeless, that you shared in the dangers, privations, and sufferings of that bitter struggle, nor quitted them for a moment, until it was consummated on the glorious field of Yorktown. Half a century has elapsed since that great event, and in that time, your name has become as dear to the friends as it is inseparably connected with the cause of freedom, both in the old and new world. The people of the United States look up to you as one of their most honored parents, the country cherishes you as one of her most beloved sons. In behalf of my fellow-citizens of New York, and speaking the common and universal sentiments of the whole people of the United States, I repeat their welcome to our common country." The general's reply, as might be expected, was full of warm expressions of affection and respect. He said, "the sight of the American shore, after so long an absence, the recollection of the many respected friends and dear companions no more to be found in this land, the pleasure to recognize those who survive, the immense concourse of a free republican population, who so kindly welcome me, have excited sentiments which no language is adequate to express. It is the pride of my heart to have been one of the earliest adopted sons of America." The general remained in New York four days, visiting the public places, and receiving the congratulations of the citizens. Thence he proceeded to Boston, in an elegant carriage provided by the corporation, and attended by four aldermen of the city. His tour eastward as far as Portsmouth, New Hampshire, southward as far as Savannah; south-westward to New Orleans, and westward to St. Louis, in the state of Missouri, and back to Boston, a journey of upwards of five thousand miles, which he performed in the course of the year, was every where marked with the same respectful attentions and congratulations. The manner of his reception at New York with the variations necessarily resulting from the magnitude of the places which he visited, and other circumstances, affords a fair specimen of the modes of welcoming him, throughout the United States. Welcome Lafayette.



Health, happiness, honor, and long life to the nation's guest, resounded from every quarter of the union. In no one object was America so united, as in honoring her favorite adopted son. The scene throughout exhibited a contest between French and American politeness, in which republican manners approached very nearly to the etiquette of polished courts.

Among the thousands that welcomed him at Cincinnati, was an old German female, who was one of the first of human beings that he saw on leaving the prison of Olmutz, and who then presented him, all she had to give, a cup of milk, and a three franc piece for his journey. Poverty had driven this good woman from her humble dwelling near that prison, to the banks of the Ohio, where she enjoyed the exquisite pleasure of greeting him who had once been the object of her compassion and charity.

*Proceedings in congress.* At Washington, on the 10th of December, he was introduced by a committee of one from the representation of each state, into the hall of the house of representatives, and by the speaker, in the name of the whole people of the United States, bid a cordial welcome. The general replied in language expressive of his high sense of gratitude for the distinguished honor. On this occasion, the members of the senate, the officers of state, the foreign ministers, and the beauty and fashion of the city attended. After the mutual congratulations, the house immediately adjourned, and the speaker introduced each member individually to the general. Congress however could not satisfy themselves, or do justice to the public feeling, without giving their illustrious guest a more substantial token of the nation's gratitude. By the sacrifices he had made to the American cause, and the confiscation of his property by the revolutionists in his own country, Lafayette had become poor. A numerous family looked to him for support. Out of favor, and without employment in his own government, he had not the means of supporting them in the style which their rank in society required. In his message at the opening of the session, Mr. Monroe noticed in appropriate and affectionate terms, the arrival of Lafayette, and recommended to congress, that, "considering his very important services, his losses and sacrifices, such provision should be made and tendered to him, as should correspond with the sentiments and be worthy the character of the American people. A committee of the senate, to whom the subject was referred, reported two

resolutions, one granting him the sum of two hundred thousand dollars, to be raised by creating a stock to that amount, bearing six per cent interest, irredeemable for ten years, that he might either enjoy the interest as an annuity, and leave the principal to his family, or convert it immediately into money, if his necessities required. The other granting him a township of six miles square, to be located in any of the unappropriated lands where the president should direct.

In their report, the committee make an estimate of the property expended, sacrifices made, and services rendered by the general in the cause of America, evincing that the grants contemplated in the resolutions were due to him in point of justice, as well as on the score of gratitude. As a further reason for adopting the resolutions, the committee stated, that congress had heretofore granted him eleven thousand acres of land, to be located in any unappropriated territory of the United States. That in 1804, his agent located it in the neighborhood of the city of New Orleans. That in 1807, congress confirmed the title in the city council, to all lands lying within six hundred yards of the limits of the city, which embraced a considerable portion of the grant as located by the agent of Lafayette. The general, being informed of these circumstances, and also being advised that his title, being the eldest, was superior to that of the city, replied that having received this as a bounty from the United States, he should have no controversy with any of their citizens respecting the title, and directed his agent to enter a relinquishment. And that this land was now worth five hundred thousand dollars. These resolutions, after encountering some opposition, on the ground that there were many meritorious officers, citizens of the United States, now living in poverty and dependence, whose services were unrewarded, passed both houses by large majorities, and were presented to the general by a joint committee, accompanied with a highly complimentary address, to which he replied, that "the immense and unexpected gift, which in addition to former and considerable bounties it has pleased congress to confer upon me, calls for the warmest acknowledgments of an old American soldier, an adopted son of the United States, two titles dearer to my heart than all the treasures of the world."

*His return to France.* The general, after making a second visit to Boston, to witness the laying the corner stone of the Bunker hill monument, erected in commemora-

tion of the memorable battle fought on that spot on the 17th of June 1775, just half a century before, returned to Washington, preparatory to leaving the United States. The *Brandywine*, a newly built American frigate, had been prepared for his accommodation, and on the 7th of September, 1825, he took an affectionate leave of the president, and numerous citizens assembled on the occasion, and embarked for his native country. His last act before he left America was evincive of the goodness of his heart. Having heard that General Barton, an old fellow-officer of the revolution, had been incarcerated in a jail in Vermont, for debt, for thirteen years, he addressed a letter to General Fletcher, enclosing a draft to the amount of the demand, and requesting his discharge.

The extraordinary marks of respect shown to Lafayette by the republicans of America, were not calculated to allay the jealousies of the French monarch. Such attentions were considered as due only to crowned heads, and it seemed a kind of profanation to bestow them on any object short of royalty. The jealousy and distrust with which any thing of this kind is viewed by the monarchs of Europe, show by how precarious a tenure, in their own estimation, they hold their thrones. The editors of French journals were strictly prohibited from publishing from the American papers the accounts of the respect shown Lafayette. The editors are obliged to send their papers to the police office before publication, where they are examined by a censor, and every thing offensive to the government stricken out. By this operation the French journals were purged of every thing relating to the reception of Lafayette in America. Notwithstanding the injunctions of the French ministry against showing him any marks of respect, the friends and neighbors of the marquis, by whom he was universally beloved, assembled in great numbers, and greeted his return with a joyous welcome.

*Free people of color.* The number of free colored people of the United States, in which there is a greater or less proportion of African blood, amounts to two hundred and thirty-eight thousand.\* With many honorable exceptions, this population is of a vicious character. Though not slaves, they are not admitted to the privileges of freemen; have no voice in the election of their rulers; and are not themselves eligible to office. Their degradation de-

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\* Census of 1820.

stroys the usual incentives to industry and virtuous conduct. Vice and crime are much more frequent among them, than among any other description of people. In the non-slaveholding states, this class of people are not dangerous. They for the most part do the menial services of society, for the same, or less expense, than it requires to purchase and support slaves. The records of courts of criminal jurisdiction, show convictions from among them of at least three to one compared with the whites, in proportion to the whole population. Where slavery is practiced, they are viewed as extremely dangerous. Excluded from associating with the whites, they mingle with those of their own color, and encourage desertion and revolt. Their habitations furnish places of resort for disaffected slaves, where insurrection and murder are plotted, and means provided.

*Conspiracy of negroes at Charleston.* In the year 1822, a conspiracy was set on foot at Charleston, among the blacks, to destroy the city, and massacre the inhabitants. It was managed with much secrecy and adroitness, and discovered but a short time before it was to have been carried into execution. It resulted in the conviction of eighty of the conspirators, thirty of whom suffered capital punishment. Though this conspiracy was among the slave population, the free colored people were supposed to be its principal instigators. Suspicion and alarm concerning them was much increased by this event.

*Act of South Carolina.* In the following December, the legislature of South Carolina, excited by the danger to which their principal city had been exposed, enacted a law, providing that if any vessel should enter their ports, either from another state or a foreign country, having on board any free persons of color, as part of her crew, such persons were to be seized, and confined until the departure of the vessel, when the captain was required to take them away, and pay the expenses of their detention. On his neglect, he was liable to two months imprisonment, and a fine of a thousand dollars, and the persons so left were to be sold for slaves. In the following year, the *Marmion*, a British vessel, arrived in the port of Charleston, when four of her crew, being persons of the description specified in the act, were taken and imprisoned, by virtue of its provisions. These proceedings were the subject of a spirited remonstrance from the British minister. The question, whether this act was compatible with the rights of nations, in amity with the United States, and with the constitution, was submitted to the attorney gene-

ral. His opinion was, that the act was incompatible with both, and that the proceedings at Charleston were a violation of existing treaties between Great Britain and the United States.

*Proceedings of the governor and senate of South Carolina.* The papers on the subject were transmitted by the secretary of state, to the governor of South Carolina, with a request that the evil might be corrected by the legislature of that state. In communicating these papers to the senate, accompanied with a proposition from the legislature of Georgia, so to amend the constitution, as that it should not be construed "to authorize the ingress of any persons of color into any one of the United States, contrary to the laws of such state," the governor, after a labored argument, to show the right of the state to pass laws of that character, remarked, "that there should be a spirit of concert and action among the slave-holding states, and a determined resistance to any violation of their local institutions. The crisis seems to have arrived, when we are called upon to protect ourselves. The president of the United States, and his law adviser, so far from resisting the efforts of a foreign ministry, appear to be disposed, by an argument drawn from the overwhelming power of the general government, to make us the passive instruments of a policy, at war not only with our interests, but destructive also of our national existence. The evils of slavery have been visited upon us by the cupidity of those who are now the champions of universal emancipation. A firm determination, to resist at the threshold every invasion of our domestic tranquillity, and to preserve our sovereignty and independence as a state, is earnestly recommended; and if an appeal to the first principles of the right of self-government be disregarded, and reason be successfully combatted by sophistry and error, there would be more glory in forming a rampart with our bodies, on the confines of our territory, than to be the victims of a successful rebellion, or the slaves of a great consolidated government."

The senate responded to this tirade of their governor, by a majority of thirty-six to six; resolving,

"That they had carefully considered the documents transmitted to them, relating to the laws regulating the ingress of free people of color, and can as yet perceive no departure from the duties or rights of this state, or of the United States, in that law.

"That they see, with profound regret, the alarming symptoms of an unconstitutional interference with her colored population.

"That it is as much the duty of the state, to guard against insubordination and insurrection among our colored population, and to control and regulate any course which excites or produces it, as to guard against any other evil, political or physical, which might assail it. This duty is paramount to all laws, treaties, or constitutions. It arises from the supreme and paramount law of nature, the law of self-preservation, and will never by this state be renounced, compromised, controlled, or participated with any power whatever.

"That they are aware of the dangerous and insidious conduct of a party in Great Britain and the United States, who are ever ready to indulge their benevolent propensities at the expense of their neighbors, and who seem to reflect with complacency on the scenes of carnage and cruelty, which might be the result of their inconsiderate and mischievous machinations. Therefore,

"Resolved, That the legislature of South Carolina protests against any claims of right, of the United States, to interfere, in any manner whatever, with the domestic regulations, and preservatory measures, in respect to that part of her property, which forms the colored population of the state, and which property they will not permit to be meddled or tampered with, or in any manner ordered, regulated, or controlled, by any other power, foreign or domestic, than this legislature."

The law in question being upon the face of it, a manifest violation of the national constitution, could justify no proceedings under it; but the consideration that any person who should be prosecuted, would have to seek redress before courts and juries in the state where it was deemed a constitutional and necessary law, prevented in a great measure the infringements of its provisions. It remains in the statute book of South Carolina unrepealed.

There were however other considerations connected with this subject, much more important than the admission or exclusion of a few free negroes into the ports of South Carolina. The language of the state authorities on this occasion, was a direct challenge to the government of the United States, and a declaration, that in a certain event, its acts should be resisted by force.

The state governments, for all purposes not within the purview of the constitution, are sovereign and independent communities, possessed of the power of the sword and the purse of their citizens, but for all purposes which that instrument embraces, are mere subordinate corporations, having no legitimate power to do any act contrary to the will of the general government. The power of determining, whether a given case is, or is not within the provisions of the constitution, must be lodged somewhere. If, as is claimed in this instance by the governor and senate of South Carolina, it is lodged in the state authorities, there is an end of the union. Few acts of public concernment can be passed, but what will be viewed by some one or more of the twenty-four independent communities, upon whom they are to operate, as unconstitutional. The right of resistance necessarily follows the right of judging, when the decision is against the constitutionality of the act. Civil war, or the submission of one or the other party, must ensue. Hence, by common consent, the high prerogative of determining questions of this nature, in the last resort, has been conceded to the supreme court. The proceedings in South Carolina were not alarming on the ground of any apprehension that the general government would suffer the constitution, and the laws and treaties made in virtue of it, to be prostrated at the feet of the state authorities; but the danger to be feared, was, that such combinations would lead to a concentration of greater powers in the former, than would otherwise be necessary, and thus tend directly to that consolidation which the governor seems so much to deprecate. While the general government maintains with becoming energy its authority, in all cases provided by the constitution, and frowns upon any attempt, by subordinate corporations, to resist its legitimate exercise, it has ever carefully abstained from interfering with the slave population existing in the states of the original confederacy. Excepting the single provision of prohibiting the importation of slaves after a given period which has long since elapsed, congress have no powers on the subject of slavery, regarding the original states, who were parties to the compact; and they have as yet given no occasion to induce a belief that they will assume any. The progress of public opinion, however, which it is impossible to resist, is rapidly advancing to a point on this subject, which will very much do away the evils, and perhaps finally abolish the system. A sudden or ill-timed emancipation would doubtless be attended with worse consequences

than its continuance in a mitigated form. More than a hundred anti-slavery societies are already established in the United States.\*

The friends, a respectable and increasing denomination of Christians, bear uniform testimony against it; and those of North Carolina have agreed to emancipate all their slaves, provided they can be removed out of the country. The friends of abolition entertain a strong expectation, that such an experiment in the south, will show that the soil in that climate may be profitably cultivated without slave labor, and ultimately lead to the accomplishment of their wishes.

*American colonization society.* In the mean time, the removal of the free colored people from the neighborhood of the slave population, is an object of high importance. In this, the north and the south are united. With a view of removing from the United States a portion of this population, a society was formed at Washington in 1817, consisting of gentlemen of the first respectability and talents from different parts of the United States, denominated the American colonization society, whose sole object was to devise and execute a plan for the colonization of the free people of color in the United States, in Africa, or such other place as congress should deem expedient. The project of this colony was upon entirely different principles from the European system. No pecuniary advantages were calculated to result to the society; but on the contrary, very considerable expenditures were to be incurred, without the prospect of remuneration. The territory to be occupied by the colonists, was not designed to belong to the company, or to the United States, but to be the property in fee of the emigrants, and no jurisdiction to be exercised over them beyond the period when they should be capable of self-government.

Several important ends were in view by this measure. The successful establishment of such a colony, would remove without the limits of the United States, to a certain extent at least, a population of a vicious and dangerous character. It would better the condition of the emigrants by elevating them to the rank of freemen: it would facilitate the emancipation of slaves, as it would enable those who were disposed to do it, to annex the condition of their removal to this colony, and in this manner avoid the danger arising from the increase of free negroes; it would contribute to the sup-

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\* Address of the Maryland anti-slavery association.



pression of the slave trade, by affording means of information, and furnishing convenient harbors and supplies for government ships employed on the coast of Africa; it would have a tendency to diffuse the blessings of civilization and christianity among the surrounding tribes with whom the colony might have intercourse, and probably open a new and profitable source of commerce.

*Commencement of their operations.* A scheme fraught with so much good did not fail to recommend itself to the charities of the American people. A forcible appeal to their benevolent feelings on this subject produced a considerable sum, by which the society was enabled to commence its operations. Serious difficulties, however, were to be encountered in the outset. The habitable part of the coast of western Africa, southerly of the dominions of the emperor of Morocco, the point to which the society directed their attention, was in the possession, with the exception of Sierra Leone, of several tribes who subsist principally by seizing their fellow-negroes of the interior, and selling them to slave-dealers. A more savage and ferocious set of beings in human form, cannot be found. Lands, for the purposes of settlement, were to be obtained from the head men of these tribes, who were in no wise disposed to favor a scheme calculated to break up their traffick. The slave-dealers industriously circulated among them prejudices designed to defeat the object. The territory sought was in the equatorial regions where the excessive heats were supposed to be fatal to natives of more northern climates. The free negroes, of whom the emigrants were to consist, have a characteristic apathy and aversion to enterprise, which was to be overcome. The few who were in easy circumstances, could hardly be expected to leave their comforts for the uncertainties incident to the emigration; and it was scarcely possible to infuse into the mass of the free negro population a principle of exertion adequate to the object.

Notwithstanding these obstacles, the society steadily prosecuted the plan. In November, 1817, they sent Messrs. Mills and Burgess on a mission of inquiry to Africa. They arrived at Sierra Leone in the March following, and after two months spent in a laborious survey of the coast, with a view to find a suitable place for the projected colony, they re-embarked for America. Mr. Mills died on his homeward passage.

*Co-operation of the government.* Several important considerations induced the government to aid the objects of

the society. The law of congress, which prohibited the importation of slaves after the year 1808, vested the power of disposing of such as should be brought in, in contravention of the act, in the state legislatures. The principles upon which the act of 1808 was founded, as well as the dictates of humanity, required a different disposition of these unfortunate beings. There was also another class of Africans, for whom it seemed incumbent on the government to provide. Laws had been passed at subsequent periods, prohibiting, under severe penalties, citizens of the United States from being any ways concerned in the purchasing or transportation of negroes from the coast of Africa to any foreign country; and authorizing the employment of a naval force to suppress the traffick. It became an object of importance with the government, to provide a place for the reception of such as might be rescued by virtue of these laws. To make any disposition of them, either as slaves or as free people, in the United States, was incompatible with true policy. With these views, the government, on a representation of the society's board of managers, determined to establish an agency on the coast of Africa, particularly charged with the care of re-captured negroes.

Accordingly the Elizabeth was chartered, and carried out one agent for the society, two for the government, and eighty people of color, to commence a settlement. The emigrants were to be employed for a time, at public expense, in making preparations for the reception of re-captured Africans. With much difficulty, they obtained liberty of the neighboring chiefs to form an establishment at Sherboro, a low and unhealthy island, in latitude seven degrees north, twenty-two miles long, and twelve broad, a little to the southward of Sierra Leone. Here, while they were attempting in vain to negotiate with the natives for more land, the three agents, and twenty of the colonists, died. The superintendence then devolved on Daniel Crocker, one of the most intelligent and respectable of the negro settlers. In the spring of 1821, two agents on the part of the society, and two on the part of the government, with twenty-eight laborers, were sent out, with instructions to seek, if necessary, the protection of the British settlement of Sierra Leone. It became necessary to abandon Sherboro, and to remove the remnant of the colony to the British settlement. The agents made another unsuccessful attempt to purchase lands of the natives, two of them died, and the others returned to America.

*Settlement at Montserado.* In the following December, Doctor Ayers, in behalf of the society, and Lieutenant Stockton, of the schooner Alligator, sailed for Cape Montserado, and with much difficulty succeeded in purchasing of the natives, for goods of the value of six hundred dollars, a tract of land forty miles square, at the mouth of the Montserado river, in six degrees north latitude, two hundred and fifty miles south of Sierra Leone. The tract has a good harbor, is high, fertile, and the healthiest in that region. The colonists were immediately transferred to the new establishment. On their arrival, they were informed by the chiefs of whom the land had been purchased, that the contract was annulled, and that they would not be permitted to settle. They however ventured to land and commence their operations; and while the colonists were building their houses, the agents succeeded in pacifying the natives, and inducing them to ratify the contract. In the August following, the settlement was reinforced by the arrival of the brig Strong from Baltimore, with Mr. Ashmun, society's agent, and thirty-five emigrants, and fifteen re-captured Africans.

*Attacked by the natives.* The natives in the neighborhood of Montserado had never been reconciled to the establishment of the colony. Instigated by the slave merchants, and indulging the hope of ridding themselves of strangers of whom they were jealous, and pillaging their dwellings, a general combination was formed, consisting of all the tribes in the vicinity, aided by numerous warriors from the interior; and in the morning of the 11th of November, the colony, consisting only of twenty-eight effective men, was attacked by a body of eight hundred natives, who coming upon them by surprise, gained possession of the settlement; but after one or two discharges from an eighteen pounder, they fled. On the 2d of December, another attack was made in two opposite quarters, by a body of fifteen hundred natives, who again dispersed at the firing of cannon. The bold and successful resistance of the few colonists, with their terrific field-piece, against such an overwhelming force, effectually discouraged the assailants from any further attempts; and with the aid of several British naval officers, peace was restored, the natives consenting to submit their complaints to the governor of Sierra Leone.

In May, 1823, the brig Oswego arrived from Boston, with sixty emigrants, making the whole number then at Montserado one hundred and ninety. Peace and a friendly intercourse were established with the natives, and the colony

appeared under more favorable auspices. From the origin of the society, to the end of the year 1823, two hundred and twenty-five emigrants had been transported to the colony; and of that number there were then living one hundred and forty.

*Liberia.* The name of Liberia was given to the territory, and the settlement at Montserado denominated Monrovia, in honor of the president of the United States, under whose auspices it had been conducted. In May, 1824, the board of managers sent out another reinforcement of settlers, consisting of upwards of one hundred, in the ship *Cyrus*. After a seasoning sickness, which seldom proves fatal, the emigrant negro population were healthy. The board have adopted a system of civil government on republican principles, and suited to the situation and wants of the colony. Monrovia has been made a missionary station, and schools have been provided for the instruction of the children of the establishment. A new settlement has been commenced at St. Paul's river, under favorable circumstances. One hundred and twenty sections of land have been surveyed, and allotted to as many families, who are engaged in building for themselves comfortable houses, and improving their lands. The military force has been arranged into two corps, a company of infantry of forty, and an artillery of fifty men, with one eighteen pounder. A friendly intercourse exists with the neighboring tribes, from whom there is nothing to fear. In bringing the establishment to this point, the managers have labored with a commendable and unwearied assiduity. At a meeting in January, 1826, the society, in their resolutions, say, that "they have always looked to the power and resources of the nation, and of the several states, for the accomplishment of the object, and direct that application be made to congress for the necessary aid, and to the several state legislatures, to encourage and facilitate the emigration of their colored inhabitants." In support of their views, they refer to Sierra Leone. This settlement was undertaken by individuals for purposes, in many respects, similar to that of Liberia. In their hands it languished, and become nearly annihilated. In 1809, the government of Great Britain took it under their patronage, since which, its colored population have increased to sixteen thousand, eleven thousand of whom are recaptured Africans. Lately the Sherboro country, lying between Sierra Leone and Liberia, has submitted to British jurisdiction.

*Aid of government necessary.* From the facts brought into view in relation to this subject, the public have become satisfied, that an eligible situation has been selected for the establishment of a colony of colored people, and with the proper means, a respectable one can be there supported: that the necessary expenses far exceed the bounds of private charities, and without the aid of government the institution must languish, and no sensible diminution of the free negro population be effected. That this is a very desirable object, is a point, and almost the only one in relation to Africans, in which the north and south are agreed. The existence of this description of people, to any considerable extent, in the slave-holding states, is incompatible with the public safety. To banish them without providing a suitable retreat, would be revolting to the feelings of humanity; but such provision being made, there could be no well founded complaint against even a compulsory removal, so far at least as the safety of the white population might require. Were the government to consult merely the economy of yielding the necessary support to this colony, compared with the expenses of suppressing the revolts and insurrections consequent on a promiscuous intercourse between the free negro and slave population, the former would be the preferable course. The United States indeed, viewing the complicated evils resulting to European governments from the possession of distant colonies, have been averse to the policy. But the object presented by the colonization society, is of an entirely different character, and resting on other grounds. With these views, the society and its friends confidently appeal to the government to take the colony under its protection, and to afford the necessary aids for the removal of a considerable portion of the free negro population of the country.\*

*Emigration to Hayti.* Another mode of disposing of this population has been resorted to, but with little success. The president of Hayti, desirous of increasing the numbers and strength of his subjects, invited them to his dominions, offering them the privileges of free citizens, and a title in fee to as much land and of a good quality, as they would take up and cultivate, and to bear the expenses of their trans-

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\* In 1830, the population of Liberia amounted to 2,000. Their militia consisted of six companies, and about four hundred men, with twenty pieces of ordnance. Their exports have amounted to 70,000 dollars, in a year. No white man is allowed to reside in the colony, except the agent, or as a physician, teacher, or missionary.

portation and support, until they could provide for themselves. In the year 1824, President Boyer sent Mr. Grenville to New York with these propositions, offering to make provision for the immediate transportation of six thousand. The members and friends of the colonization society, in New York and in the northern states, favored the object, viewing it as auxiliary to the main design of furnishing a proper retreat for the colored population of the United States. The plan met with the united opposition of the south. The existence of a nation of free negroes in their vicinity, was viewed with jealousy, and distrust. A considerable number accepted the propositions of Mr. Grenville, and embarked for Hayti, but not to the extent of the provision. The emigrants, finding that subsistence there was not to be obtained without laborious exertion, became discontented; many of them returned to the United States, and the project failed. To a proposition for the formation of a distinct colony of emigrants in his dominions, to be governed by their own laws, and connected with him only by alliance, the president gave a decided negative, stating that every resident on the island must be subject to the general laws of the country.

## CHAPTER XVIII.

Indians—Their numbers—Land titles—General character—Customs—Religious notions—Efforts to civilize them—Their disposition towards the whites—Principles adopted by the general government towards them—Disposition to obtain their lands—Process of extinguishing Indian titles—Georgia and the Creeks—Compact of 1802—Measures taken to fulfil it—Treaty of the Indian Springs—Execution of M'Intosh and his followers—Proceedings of Georgia in relation to the survey and disposition of the lands—Correspondence between Governor Troup and the president—Treaty of 1826—Cherokees—Their progress in civilization—Form a constitution—Georgia and Alabama extend their jurisdiction over them—Their remonstrance—Views and reasoning of the executive on the subject of Indian rights.

*Indians. Their number* The number of Indians eastward of the Mississippi, and within the original limits of the United States, is estimated at one hundred and twelve thousand, and those westward, within the Louisiana claim, at two hundred and eighty-eight thousand, making an aggregate of four hundred thousand. There has never been any actual enumeration, and any estimate of their numbers is in a great degree conjectural. At the period of the first settlement of the country by the Europeans, the Indians were much more numerous, and their claim extended over the whole territory.

*Title to property.* Their title to so much of the soil as is within their occupation, is unquestionable, being derived from the best of sources, the gift of our common Creator, and a possession beyond the records of history; of this they cannot be rightfully divested, but by their consent, given voluntarily, understandingly, and without imposition. Whether all or what portion of territory they can rightfully hold by this title, are questions of difficult solution. Of the land unoccupied by the whites in 1790, there was about one Indian to six square miles of territory, millions of acres of which had never been traversed or seen by any one. Their claim to the whole is obviously not well founded: a large portion is justly considered as vacant property, open to the first occupant. Equally obvious is it, that the places where

the Indians have built their huts, planted their corn, caught their fish, killed their game, and buried their dead, are theirs by an indisputable title. The extent and limits of this right are fair subjects of negotiation between the white and red claimants; but in these negotiations, strength, skill, and power are all on one side, and combined against weakness, ignorance, and folly.

*Character.* The general features in the character of the Indian population are the same, with many shades of difference which their intercourse with the whites and other circumstances have produced, from the mere savage, clad in skins, and subsisting only on fish and game, to the Indian who cultivates his land, keeps his stock of domestic animals, and vies with his white neighbor in the enjoyments and arts of civilization. The description following refers to the Indian character, when not essentially altered by connection with civilized man. Their habitations, denominated wigwams, generally constructed of mud, clay, poles, and bushes, without floors, chimneys, or separate apartments, were the residence of the family or cluster of families by whom they were built, and considered their property only so long as they chose to occupy them. Land and its productions were common to the tribe. The principle of separate property, by which each should be permitted to enjoy the fruits of his own industry, was not recognized among them. Before their intercourse with Europeans had furnished them with implements of iron, their means of cultivating land and taking game afforded them a very precarious subsistence. The men, when not engaged in war or the chase, led lives of perfect indolence and inactivity, compelling their females to till their land, bear their burdens, dress their game, and perform their most laborious and menial services. The manner of treating females has ever been considered as one of the surest indicia of the state of society. Among savages, they are viewed as little better than their slaves, subject to the abusive and tyrannical sway of their lords; while in refined society they are considered as its brightest ornaments, and the arbitresses of its fashions and manners. The state of society among the North American Indians, measured by this standard, must be fixed at the lowest grade. Their vacant and unmeaning countenances denote the want of object for mental exertion, while their tall, regular, and well-proportioned limbs, taking their natural shape without constraint, condemn the bandages,



straight lacings, and ligaments, with which their more civilized neighbors deform the human body.

*Usages.* Without a written language, their code of municipal law was exceedingly simple, consisting of a few customs retained in the memory of their chiefs. Without separate property, they needed no laws securing its possession, or regulating its transfer. In relation to personal injuries, each one was the judge and avenger of his own wrongs, subject however to an imperfect control, by the head men of the tribe. Where life had been taken, that of the aggressor was forfeited to the relations of the deceased, and the offense never forgiven, except in the rare case where the aggrieved consented to receive the offender as a substitute for the slain. Their form of government, so far as they might be considered as having any, was of the democratic cast. Peace and war, and the few general concerns of the tribe, were regulated at public meetings of their head men and warriors, denominated councils.

*Mode of warfare.* The connection between different tribes, was of a slender and temporary nature, liable to interruption from slight causes. Hence wars were frequent, and not being regulated by any of the principles which govern civilized nations, were of a barbarous and exterminating character. Prisoners were made only to afford the victors the savage delight of putting them to death by the most cruel tortures, and sometimes of feasting on their remains. Sudden onsets, ambuscade, and surprise, were the characteristics of their mode of warfare. An Indian seldom meets a foe in fair combat in the open field; if he fails to take his enemy unawares, he retires, and waits a more favorable opportunity. War is the delight of the savage. It rouses him from that state of listless inactivity to which he is condemned in time of peace, and calls into operation all the energies of his nature. He endures cold, hunger, and fatigue, with a patience unknown to civilized man, and when vanquished, submits to the severest tortures without a sigh.

*Religion.* The religious notions of the Indians are as simple and crude as the other features of their character. They believe the world to have been created some long time since by the Great Spirit, and placed on the back of a huge animal. Unable to comprehend how the good and evil which they see in the world, should proceed from the same source, they believe in the existence of two invisible beings, a good and an evil spirit, from one of which proceed

all their enjoyments, and from the other all their sufferings. They pay homage, in various forms, to each of these, as they want the protection of the one, or dread the power of the other. They consider these beings as independent of each other, but the good Spirit as being rather the predominant power. At death, those who have vanquished their enemies, and all who have been so fortunate as to obtain the favor of the good Spirit, go to a pleasant land abounding with fish and game, and free from the intrusion of the whites, where they have plenty of women to serve them, and every enjoyment which an Indian imagination can picture. But all are not admitted to this paradise. Cowards, and those who have fallen under the displeasure of the evil spirit, go to a country, desert and barren of Indian pleasures. With their chiefs and warriors, they bury their arms and utensils, that they may have the use of them in the other world.

This people have given many specimens of native sagacity and talent, which, by the help of an education, would doubtless have raised the possessors to distinguished eminence. Bold, laconic, and pertinent speeches have been heard at their council fires, which would have done honor to the orators of any nation; but these cases are too rare, to afford a national characteristic.

*Dread of the white people.* The Indians have ever viewed the approach of the whites with dismay. The sound of the cultivator's ax fills them with horror. They hear in its strokes the irresistible command, Indian, depart. For a great portion of the time since the first planting of the English colonies, an Indian border warfare has existed, exhibiting, in every stage, revolting scenes of indiscriminate massacre. In the war of 1756, in that of the revolution, and of 1812, the inhuman policy was adopted, of employing the savages, and necessity often obliged the commanding generals to indulge them in that massacre, and plunder to which they had been accustomed.

*Attempts to civilize and Christianize them.* The moral condition of this people has for a considerable time excited the attention of the benevolent institutions of the country. For the last half century, a laudable desire to ameliorate the condition of that portion of the human family, who appear to be in an ignorant and degraded state, has been conspicuous, and in its operation has produced a great number of associations, having for their object the extensive spread of the blessings of civilization and Christianity. America has not been behind her sister nations in Europe in the pursuit

of this object. The spirit of benevolence has increased with her growing means. The natives within their borders were among the most prominent objects of the charities of the people of the United States. Voluntary associations under the denomination of missionary societies, have been formed in various parts of the union, whose principal object has been to instruct the natives in the Christian religion. The early efforts of these societies, consisting only of sending travelling preachers among them, were injudiciously conducted. The untutored savage mind is incapable of comprehending the sublime doctrines of the Christian system, until it is in some measure expanded by the light of civilization and science. Slight temporary effects only were produced, which soon disappeared in the absence of the teachers from among the Indians when engaged in the chase. They were also not without suspicions that the ultimate object of the missionaries, was their lands. Experience soon directed to a different course, making it manifest that Indians must be reclaimed from their roving, hunter state, and brought to some degree of civilization, before religious instruction can produce any permanently beneficial effect. This conviction led to a change of measures. Permanent stations have been established, to which missionary families, consisting of farmers, mechanics, schoolmasters, and religious instructors are assigned; and where agriculture is introduced, the most useful implements of husbandry supplied, and their children instructed in the rudiments of learning. These establishments, located principally in the southwestern section of the United States, and supported by the charities of the American people, aided by an annual appropriation of ten thousand dollars from the government, have answered the most sanguine expectations. The Indians, who have enjoyed the benefit of them, have made great advances from the savage to the civilized state, have resorted to agriculture as their principal means of support, and some of them, to appearance, have become sober, industrious, and intelligent Christians. The experiments already made have established the point beyond a doubt, that an Indian nation is capable of being brought into a state of civilization. But these exertions to ameliorate the condition of the Indian state, it is to be lamented, is in direct opposition to another object which has long been sought and recently avowed, that of their total removal from the limits of the United States. In proportion as they become reclaimed from the hunter to the agricultural state, their attachment to the

soil which yields them a support increases. Having furnished themselves with decent dwellings, and the means of a comfortable living, they hear any proposition for a removal with the utmost reluctance. While the missionary, under the patronage of congress, is instructing them in the principles of Christianity and the arts of civilized life, they dread the approach of the United States agent, commissioned to get their lands under the form of purchase, and compel their removal. This dread increases in proportion to their advances in civilization. To a recent proposition for the relinquishment of the remnant of their lands in Georgia, the Creeks replied : " We know the strong arm of our great father, the president ; we will not contend against it ; but we love the land which contains the bones of our fathers ; we will lie down under our fences ; we will die by the graves of our fathers, and manure the lands which you take from us with our ashes, but we will not remove."

*Principles of the government relating to them.* With a population of this character, possessing these claims, and entertaining such feelings, within its borders, the American government, at every period, has had much to do. At its commencement, certain fundamental principles in relation to them were recognized ; to wit, that their title to the lands in their occupation was indefeasable ; that they were independent communities, not subject to taxation or municipal laws of the states, or of the United States ; that they were not to be molested in the free enjoyment of their own customs, manners, and laws ; and that they were not to be enumerated as part of the population of the country. While they were thus considered and treated for the most part as independent nations, the government assumed the power of laying on them certain restrictions, which were deemed necessary for their own well being, as well as the safety of American citizens.

1st. They were to hold no intercourse with any foreign power :

2d. They were not to dispose of their lands but by treaty, held under the authority of the United States :

3d. Commercial intercourse with them, was to be regulated by the American government :

4th. The privilege of establishing military posts and public roads in their territory was claimed, and sufficient lands required to be ceded for those purposes : And

5th. Where injuries were done by Indians, to the whites, the perpetrators were required to be given up to be pu-

nished, according to American law. Where the injury proceeded from the whites, satisfaction was to be made to the Indians, and the offender punished by his government, according to the nature of the offense.

To provide for the common defense, was one of the leading motives for establishing the American constitution, and one of the first duties which devolved upon the government under it. The dangers, then, most to be apprehended, arose from Indian hostilities. Hence, in the division of powers between the general and state governments, the regulation of Indian affairs devolved exclusively on the former; and the states were expressly prohibited from any hostile acts. They exchanged all authority or jurisdiction which they might be supposed to possess or claim over the persons or lands of the Indians, within their chartered limits, for the protection afforded them by the general government. Hence proceeded the regulations which have been noticed; and hence, also, in the general distribution of the executive department, Indian affairs were placed under the control of the secretary of war, who performs this duty by means of an officer, denominated the superintendent of Indian affairs.

No other feeling is entertained by Americans towards this unhappy race, when uninfluenced by interest, than that of compassion; and no other wish, than that they may be brought, as far as may be, within the pale of civilization, and be permitted to live unmolested, until time should extinguish their race, or amalgamate them with the whites. In those sections where Indian territory constitutes a considerable portion of the state, there are powerful reasons why their expulsion should be sought. Much of the land is of an excellent quality, and desirable as a matter of interest. While possessed by the Indians, it is comparatively in an uncultivated state; the increase of white population is impeded, and the state is prevented from assuming that rank and influence in the Union, to which its wealth and population would otherwise entitle it. Animositities and feuds constantly exist between the border whites and the neighboring Indians, which, though restrained by the arm of government, from breaking out into open violence, render their situation unpleasant, and often unsafe. The Indian territory affords a convenient asylum for runaway slaves, and fugitives from justice. These, and other considerations, have created a determination in the states whose boundaries inclose large portions of Indian territory, to extinguish the title as soon

as possible: a determination which seals the doom of this people, and which the government cannot long resist.

*Regulation of Indian trade.* The national policy towards the Indians, has hitherto been of a compound character, partaking of the feelings of its different sections. Government has endeavored to regulate commercial intercourse with them, in such manner as should prevent imposition, and operate to their benefit. Peltries and furs are almost the only articles of Indian traffick. In an unprotected state, traders go among them with whiskey, and other useless articles, and obtain their valuable commodities at an enormous profit, for articles of little worth. The Indian, when the fumes of intoxication are evaporated, finding himself cheated, seeks an indiscriminate revenge. To protect the Indians from these evils, the government have, at different times, adopted two courses: one, to prohibit all intercourse with them, except by licensed traders, who should be regulated in their traffick in such manner as to prevent imposition; the other, to establish government trading houses, at convenient places, where the Indians might be furnished with such articles, only, as were convenient and useful to them, in exchange for their peltries, and at such rates as would merely indemnify the expenses, and all private trade with them prohibited. Agents are appointed, to reside among the principal tribes, for the mutual protection of the Indians and whites.

*Manner of obtaining their lands.* But Indian territory is the great object, to the attainment of which all others must be subservient. Constant applications are made to government, to extinguish Indian titles, to which it has been obliged to yield. The process is sure of accomplishing its object, and is, in effect, compulsory on the poor Indian. While his title is acknowledged, and his consent in form required, he is under a moral necessity, at least, of complying. Commissioners are appointed, consisting of men who feel a deep interest in obtaining the land sought, and who are supposed to have the most influence with the tribe to be operated upon. They appoint time and place for holding a treaty, of which the Indians are notified. Provision is made by the government, for a liberal support of as many Indians as will attend. They usually come in great numbers; those who do assemble, be they few or many, are recognized as the chiefs and head men of the tribe whose territory is to be obtained, and as having the right to dispose of it. In proper time, the commissioners make known

the wants of their government; arguments calculated to operate upon their hopes and fears, are addressed to the Indians, and in the end they are given to understand, that it must be as their great father, the president, wishes. Greater or less obstacles are met with at these negotiations, according to the sagacity, intelligence, and integrity of the Indians assembled. The land sought for is usually obtained, for something having the appearance of an equivalent, generally consisting of a sum paid in hand, and an annuity. The business is closed by the distribution of the expected presents, among the Indians who have been most instrumental in effecting the object. In this manner, with as much equity and justice as can be expected, where power and skill are all on one side, and naked right, supported only by weakness and ignorance, on the other, has the Indian title to most of the territory claimed by them, within the United States, in the course of forty years, been extinguished, and with it a great portion of the Indians themselves.

*Creek Indians.* The case of the Creek Indians in Georgia, though similar in some of its leading features to the usual process of obtaining Indian lands, has so many peculiar characteristics, that it deserves a detailed notice.

Soon after the close of the war of the revolution, congress urged on the states a cession of the vacant territory within their chartered limits, for the purpose of constituting a fund to discharge the debts of the war. They urged that this property, having been acquired by the joint exertions of all the members of the confederacy, and never having been appropriated by any individuals, was in truth the joint property of the union, and ought to be applied to discharge the expenditures by which it was obtained. Most of the states possessing lands of this description, listened to the request, and made liberal cessions. The state of Georgia, then one of the smallest and weakest of the confederacy, dating her existence as a colony only about forty years before the war of the revolution, and containing only a few inhabitants on the sea-board, and on the borders of the Savannah river, according to her charter, extended from the Atlantic to the Mississippi, in length upwards of five hundred miles, and in breadth about three hundred, comprehending what now constitutes the states of Georgia, Alabama, and Mississippi. She refused to make the required cession. This region, large enough for an empire, was more thickly settled with Indians than any part of the union. They were considerably more numerous than the

white inhabitants of Georgia; and united under M'Gilvary, a half-breed king, were able to exterminate the white claimants of their territory. It required much expense, and the united force of the confederacy, to protect them. In the year 1795, peace having been made with M'Gilvary, the state sold a large tract of this country, lying on the Yazoo river, a tributary of the Mississippi, for a trifling sum. The Yazoo purchase, as it was called, soon became an object of speculation. The scrip passed rapidly from hand to hand, constantly on the rise, and conferring on each successive possessor an imaginary fortune. In the course of the year, a great portion of it passed into the hands of speculators residing in the north. The succeeding legislature discovered that the purchase was obtained at a very inadequate price, and by means of fraud and bribery. They passed an act, declaring the sale to be void, and ordered the records, and all the proceedings of their predecessors in relation to the Yazoo lands, to be publicly burned. The government of the United States, having been settled under the constitution, claimed that this property belonged to them; that their title to the vacant lands did not depend upon the acts of the states within whose chartered limits they lay, but on the ground that it was originally obtained, and its possession secured by the joint exertions, and at the joint expense, of all. From the year 1795 until 1802, there appeared four adverse claimants to this territory: the United States, the state of Georgia, the Yazoo purchasers, and the Indians. At the latter period, a compromise took place, by which the state of Georgia ceded to the United States their title to all the land lying west of a line agreed upon to constitute the western boundary of Georgia, running a considerable distance on the Chatahooche, and from thence to the Tennessee river. The United States, on their part, confirmed to the state of Georgia all the lands lying eastwardly of that line, paid the state \$1,250,000, and engaged to satisfy the Yazoo claimants, which was done at an expense of upwards of four millions; and to extinguish the Indian title to all the lands remaining to the state of Georgia, "as soon as it could be done peaceably, and on reasonable terms." This compromise secured to the state of Georgia twenty-six millions of acres of unappropriated territory, then occupied by the Creek and Cherokee nations of Indians, and obliged the United States to be at the expense of purchasing it for the benefit of that state. In the course of the succeeding twenty years, the United States had obtained from the In-



dians, for the benefit of Georgia, and at a great expense, about three fifths of this land. These cessions were made by the Indians with great reluctance; and in the year 1824, the Creek nation, the principal occupants of the remaining Indian territory, came to a solemn resolution to part with no more of their land, and in the crude but efficient forms in which they enact laws, denounced the penalty of death upon any one who should even make a proposition in council for a further cession. In the mean time, the state of Georgia pursued the object of obtaining all the Indian lands within their limits, with unwearied assiduity.

*Treaty of the Indian Springs.* In the same year, the president, pursuant to an act of congress, passed at the instance of the Georgia delegation, appointed Messrs. Campbell and Meriwether, two influential citizens of that state, commissioners to treat with the Creeks for a cession of all their lands within the limits of Georgia. The scheme proposed, was to procure them a tract of equal extent and value in the Arkansas territory, west of the Mississippi, to pay them for their improvements, and provide for the expenses of their removal.

In December, the commissioners succeeded in obtaining a meeting of the Creeks at Broken Arrow, the usual place of holding their councils, at which they rejected, by a decided majority, every proposition for a transfer of their lands. The commissioners then made application to the executive for powers to treat with a part of the Creek nation, which was refused. They at length succeeded in obtaining a second meeting at the Indian Springs, out of the limits of the Creek nation, and within the Georgia settlements: there also the principal chiefs refused to make the required cession, and withdrew, warning those that remained, of the consequences of violating their law. After their departure, M'Intosh and a few other chiefs, consisting of a small minority of the nation, was induced, on the 12th of February, to sign an instrument in the form of a treaty, ceding all the lands belonging to the Creek nation, within the limits of Georgia. This instrument was hurried to Washington, laid before the senate, and approved on the last day of their session, in March, 1825; and in a few days afterwards, ratified by the new president, without a full knowledge of the circumstances under which it was negotiated.

*Massacre of the M'Intosh Indians.* The chiefs of the Creek nation, on hearing these facts, and being informed that M'Intosh had consented to a survey of the lands sooner

than was required by the terms of the treaty, met in council, and directed their law menders, a species of officers whose duty it was when a law was broken to mend it by executing its penalties on the offender, to put to death M'Intosh, and two others who had signed the treaty of the Indian Springs contrary to the voice of the nation, and consented to an immediate survey of their lands. This order was executed in an exemplary manner, on the 30th of April, not only by putting the offending chiefs to death, but by burning their dwellings, and destroying and carrying off their property.

*Proceedings of the president.* On a representation of these facts, the president ordered General Gaines, with a detachment of United States troops, into the Indian country; and directed him, with the assistance of Major Andrews, to inquire into all the circumstances attending the treaty of the Indian Springs, and the disturbances to which it had given rise. On their report it appeared that the treaty was obtained by unfair means, that it was signed only by a small minority of the head men of their nation, contrary to their laws, and against the views and wishes of the whole Creek population, M'Intosh and a few of his adherents excepted; and that there were no grounds for considering it as the act of the nation. In the mean time, the followers of M'Intosh, amounting to about four hundred of every age and description, fled from their enraged countrymen, and threw themselves on the government for support, and were fed from the public stores. In this state of things, the president prohibited the contemplated surveys, and ordered all proceedings in relation to the treaty to be stayed until the meeting of congress.

*Proceedings of Georgia.* The state of Georgia claimed that the treaty of the Indian Springs, having been ratified with the requisite formalities, vested in that commonwealth an unalienable title to all the lands embraced within its limits. On the 18th of April, Governor Troup issued a proclamation, declaring that the treaty had been duly made and ratified, and the title to all the Creek lands in Georgia indefeasibly vested in the state, and convening the legislature on the 23d of the succeeding May, to make the necessary arrangements for the survey and disposition of the territory. At this meeting, provision was made for surveying it into two hundred acre lots, and distributing them by means of a lottery, among the citizens of the state. A correspondence took place on the subject, between the executive of Georgia, and that of the United States, noted for

its arrogance and indecorum on the part of the former, in which a determination to support the claims of Georgia at all hazards, and with all the force of the state, is distinctly avowed. This challenge was met by the president in a temperate and dignified communication in which the state of Georgia was informed that as by the terms of the treaty the Indians are not to be molested in their possessions until September, 1826, and as there are several important questions in relation to that instrument yet undecided, the contemplated survey, or any entry upon the Indian lands, will be prevented by all the means with which the American constitution has placed in the hands of its supreme executive. The people of the United States were looking with considerable anxiety at the issue of this contest, when their apprehensions were removed by a communication from the governor, stating that the surveys would be postponed.

*Treaty of February, 1826.* In the succeeding winter, a large deputation from the Creek nation, furnished with proper powers, convened at Washington, and with much difficulty and after a negotiation which lasted most of the winter, were induced to sign a treaty by which for a further consideration, they ceded upwards of four millions of acres of their lands in Georgia, retaining something less than one million. By this treaty that of the Indian Springs was vacated. It was readily ratified, and seemed to satisfy all parties except the state of Georgia, who still, by virtue of the treaty of the Indian Springs, persisted in her claim to the uncaded lands, and directed their survey after September, 1826. This was met by an order from the president, to the district attorney in Georgia, to prosecute before the circuit court any persons who should attempt to survey or make any entry on the Indian lands not embraced in the treaty of Washington. The residue of the Creek lands were afterwards purchased by the United States, for the benefit of Georgia, which settled the controversy.

This is the only state which in a pecuniary view has made a speculation out of the war of the revolution. Its inhabitants, few and feeble at the commencement, bore but a small share in the toils of that war, by which an acquisition was made of a fertile territory more than three hundred miles square, which no inhabitant of that state had ever seen. This territory was then thickly inhabited for an Indian country, by a people holding it by possession beyond the reach of human research, and commanded by a powerful prince. It was included within the limits of a charter which George

H. had some forty years before given to Colonel Ogelthorpe. The right thus acquired being only the privilege of purchasing by fair means of the original inhabitants when they were willing to sell, Georgia has been repeatedly requested to give up to the United States to constitute a fund to discharge the public debt, as all other states under similar circumstances had done. This she has always refused; and her sister states, in conjunction with her, she bearing only her rateable proportion, have expended more than twelve millions of dollars in defending her citizens and territory from M'Gilvary's invasions, and in fulfilling the terms of the compact of 1802; while she has thereby gained a territory more than sufficient to pay her proportion of the expenses of the war by which it was acquired.

*Cherokees.* The Cherokee nation, possessing a territory of ten millions of acres on the borders of Georgia, Alabama, and Tennessee, and lying partly in each of these states, contains a population of something more than thirteen thousand, exclusive of fourteen hundred slaves, and five thousand, who in the year 1817, and several preceding years, had emigrated to the Arkansas.\* The exertions to civilize this community have been more successful than any others. Their habits, manners, and mode of living, bear a near resemblance to their white neighbors. They discountenance the use of ardent spirits, are not uncommonly addicted to vice and crime, and may in truth be considered as a Christian community. Instead of wasting away and diminishing, like other tribes on the approach of the whites, their numbers have for several years past been gradually increasing. Those who removed to Arkansas, soon found themselves at war with the neighboring Osages, who considered them as intruders; and all subsequent attempts to obtain further cessions, or induce them to emigrate, have proved ineffectual. Their language is reduced to a written form, and grammatical rules; they have a printing press, and a periodical paper published at Newtown, their principal village, both in the English and Cherokee languages. In the year 1827, they formed a written constitution, resembling in its principal features, those of the states, elected their officers, and commenced a regular government. To the benevolent societies, by whose exertion these events had been brought about, and to the philanthropist, this progress of the Cherokees in civilization was highly gratifying;

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\* Census of Cherokees, 1865.

but to their white neighbors who had promised themselves the possession of their lands at no distant period, it assumed an alarming aspect. It put an end to any hopes of further acquisition on any peaceable or reasonable terms. The Georgia delegation in congress denounced all attempts to civilize the Indians within their limits, by the government, as a species of double dealing, calculated and designed to defeat the compact of 1802. The states, within whose limits the territory of the Cherokee nation lay, considered their proceedings an infringement of the right of state sovereignty. They claimed that they had uncontrolled and supreme jurisdiction over all the lands within their boundaries; and that two independent governments could not exist within the same limits. The states of Georgia and Alabama, extended their civil and criminal jurisdiction over the whole Indian territory within their borders, and called upon congress to prohibit the Cherokees from exercising the rights of self-government under their constitution. These claims, if sustained, it was evident would operate as a total change of that policy which the American government had ever pursued in relation to the Indians. If the jurisdiction of the state authorities were to be extended over them, and they made subject to their municipal laws, and interdicted from the right of self-government, they could in no sense be considered as an independent community. All their rights, privileges, and immunities as Indians, which the general government, from a consideration of the peculiar relation in which they stood to this people, have ever felt themselves bound to maintain, must cease. Another consequence resulting from these principles was, that the Indian population must be taxed, and represented in congress and the state legislatures, or that fundamental principle on which all American freedom is based, to wit, that people are not to be governed and taxed, but by legislatures, in the choice of whom they have a voice, must be subverted.

*Delegation to Washington.* A respectable delegation of the Cherokees, attended at Washington during the session of congress in 1828-9, and presented a memorial to the war department, in which they state, "that the legislature of Georgia, in defiance of the laws of the United States, and the most solemn existing treaties, have extended a jurisdiction over their nation, to take effect in June, 1830. That their nation had no voice in the formation of the confederacy of the union, and has ever been unshackled with

the laws of individual states, because independent of them. And that they can view this act in no other light, than a wanton usurpation of power, guarantied to no state, either by the common law of the land, or by the law of nature." This remonstrance being presented near the close of the presidential term, its consideration devolved on the succeeding administration, who supported the state claims.

*Secretary of war's answer to their memorial.* The task of defending them devolved of course on the war department, at this time filled by Colonel Eaton, of Tennessee, one of the states interested in supporting the claims. The facts, and the course of reasoning by which they were supported were, that something more than a century ago, some of the subjects of the king of Great Britain discovered and settled on the borders of the Atlantic ocean, five hundred miles eastward of their territory, by virtue of which he became vested with the sovereignty and jurisdiction of the whole country, from the ocean to the great river. That in consequence of the declaration of independence, and the peace of 1783, his title became vested in the several states into which the territory was divided, and by force thereof they have the exclusive right of jurisdiction and sovereignty. That nothing remains to the Indians, but a mere possessory title; and no remedy can be perceived for them but a removal beyond the Mississippi. The secretary further informs them, that if the general government should undertake to interfere with the proceedings of Georgia, it might hazard a war with that state. This, he says, is the result of a full and free conversation with the president, and submitted to them by his direction, with many assurances that their great father entertains for them the most friendly feelings.\* To the plain unsophisticated Indian mind, this reasoning was incomprehensible; a shorter process leading to the same result, would have been more intelligible, and less insulting to their understandings. "The white man wants your land; the states have power, therefore they have right. Depart."

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\* Secretary at war to the Cherokee delegation, April 18th, 1829.

## CHAPTER XIX.

State of parties consequent on Mr. Adams' election—Charges of a corrupt bargain; how supported—Mr. Clay's answer to them—Their effect on public opinion—First session of the 19th congress—Message—Different constructions of the constitution—A liberal one adopted—Mr. Lloyd's report on the discriminating tonnage duties—Judiciary bill lost by a disagreement between the two houses, as to the arrangement of the circuits—Propositions to amend the constitution in the senate; in the house of representatives; negatived—Reports of engineers on internal improvements—National road to New Orleans—Chesapeake and Ohio canal—Important national objects to be accomplished by them—Constitutional question—Panama mission—Mr. Benton's report on executive patronage—Six bills proposed to diminish it—Bill requiring the president to assign reasons for the removal of officers—Bill for the relief of F. Larche—Debate on the subject.

*Commencement of Mr. Adams' administration.* Mr. Adams having been elected to the presidency by the house of representatives, from the second on the list, though president in fact according to the forms of the constitution, it was claimed by the friends of General Jackson, that he held the office against the will of a majority of the people. A plurality of votes in the electoral colleges affords presumptive, though by no means conclusive evidence, that the highest candidate is a greater favorite of the whole community than the second. How the electors or the people would have voted on a second canvass, confined to the highest two on the list, never has been or can be known. The principle of the constitution, directing the choice ultimately to be made in the house of representatives, from the highest three, is grounded upon this conviction.

*Opposition.* A maxim all important in the American system, and on which its duration essentially depends is, that when a president is constitutionally elected, his administration should be viewed with candor, and supported in all its wholesome measures. In this instance, the aggregate of opponents, consisting of the friends of all the other candidates, occasionally augmented by desertions from those of Mr. Adams, who could not be gratified with office, formed a majority of the nation; and early commenced their operations against his administration. The affairs of the United States being in a prosperous train, and the new president pursuing the successful course of his predecessors,

very little matter could be found during the summer of 1825, with which an unfavorable impression could be made. Political discussions were almost entirely confined to the charge of a corrupt bargain between the president and secretary of state, that Mr. Clay should give Mr. Adams the first, and he give Mr. Clay the second office in the government. Public opinion, at this period, had not become so entirely callous upon this subject, but what such a charge, if well supported, must prove fatal to the future prospects of the implicated. The circumstances principally relied on were,

That the representatives from the five western states, who had supported Mr. Clay, and now held the stakes, had a meeting during the canvass, and first resolved that they would give a united vote, and secondly that it should be for Mr. Adams; and that this arrangement was brought about by the controlling influence of Mr. Clay:

That he voted for Mr. Adams against the instructions of the house of representatives of Kentucky.

That a conversation had taken place between the members respectively, friendly to General Jackson and Mr. Clay, in which it was surmised, that Mr. Adams was securing the influence of the west, by assurances that the vacancy in the cabinet occasioned by his elevation, should be filled by Mr. Clay, which would be the proper stepping stone to the next presidency; and ultimately accomplish the views of that important section of the union—that General Jackson ought to counteract this influence—by an assurance on his part, that in case of his election, Mr. Adams would not be continued in the office of secretary of state, which proposition he indignantly rejected.

That Adams and Clay had long been political opponents; had disagreed on essential points in the negotiations at Ghent; and had been rival candidates for the presidency; notwithstanding which they had now become suddenly reconciled, bestowing on each other the highest offices in the government.

The fact that each was now in possession of those offices respectively, it was claimed, was conclusive evidence of the combination.

*Defense of the administration.* These allegations, in every form which ingenuity could suggest, were reiterated with unceasing assiduity throughout the union. Mr. Clay met them, in their various shapes, in a fair, open, and undisguised manner. He utterly denied any bargain, agreement, or understanding between him and Mr. Adams, or any



conversation whatever relating to the subject ; or that any persons with his knowledge, privity, or consent, had ever made any propositions of the nature alluded to. Upon any fair principles this denial exonerated Mr. Clay, until the facts were proved upon him by his opponents.

After the charge had been publicly made in the house of representatives, there discussed, and finally abandoned, it was revived and brought forward in a conversation at General Jackson's residence in Nashville, in the summer of 1825, between him and a select party of friends, and further publicity given to it in a subsequent correspondence between him and Mr. Beverly of Virginia. On being called upon for his authority, the general referred to Mr. Buchanan, a member of the house of representatives from Pennsylvania, whose reply by no means supported the charge. He admitted, indeed, that he had had a conversation with General Jackson on the subject of the canvass, but none which intimated that he was the agent of Mr. Clay, or had ever had any conversation with him, or knew of any agreement or understanding between him and Mr. Adams, or any thing warranting the inferences in the general's communications. Mr. Buchanan rejects with becoming indignation the charge of being the tool or agent of any person, for the purposes intimated in the correspondence.

Mr. Clay produced and published the testimony of a great number of respectable gentlemen, many of whom he had been associated with in public life, who affirmed that as soon as the state of the electoral votes were known, he openly and publicly declared, that, considering Mr. Crawford's health, and the small number of electoral votes in his favor, he viewed him as out of the question, and that as between Adams and Jackson he had a decided preference for the former.

To the charge that he had disobeyed the will of his constituents, Mr. Clay replied, that he held his seat in congress by virtue of the suffrages of a district in Kentucky, who alone had a right to control his vote, and who, as between the two candidates, preferred Mr. Adams. Admitting, therefore, the right of the constituent to direct the vote of his representative, Mr. Clay had acted in conformity to the wishes of his electors. The legislature of Kentucky, however respectable a body of men, he did not think had a right to obtrude their advice upon him unasked, or control his vote against his own opinion, and that of his constituents.

In relation to any personal hostility between him and Mr. Adams, he denied its existence. As public functionaries, they had been much connected. Associated in the negotiations for peace, the subject of the free navigation of the Mississippi for British subjects to pass from their colonies near its head waters to the ocean, on the one hand; and the privilege of taking fish on the British North American coast by citizens of the United States on the other, incidentally came under discussion with the British commissioners. Mr. Adams, as was to be expected, attached more consequence to the fisheries than did Mr. Clay; and the reverse. As rival candidates for the presidency, they had indulged no personal animosities, and neither they nor their friends had assailed their private characters. Having both held conspicuous stations in the government, they had harmonized in the great topics of American policy, and wherein they differed on minor subjects, it was characterized with the candor of gentlemen, and not with the rancor of party. Mr. Clay justified his vote for Mr. Adams, on the ground of his superior talents and long experience in the great concerns of the American nation. Mr. Adams vindicated his nomination of Mr. Clay to the office of secretary of state, as well because his abilities eminently qualified him for the station, as that his residence in the west gave him peculiar claims.

These views of the Adams administration, on the subject of the presidential canvass and its results, were circulated throughout the United States, with equal assiduity with those of their opponents. But it is an evil, incident to a free press, that truth and falsehood are spread with equal ease, and nearly equal success in periodical publications. This engine holds a controlling power over the elections. Four fifths of the electors read and form their opinions from the newspapers; and those who do not read them, take their stand from those who do. The great mass of readers see only one side, the few who read both do it with a view of finding something to support their party, rather than of investigating truth. In relation to the circulation of falsehoods, the antidote is by no means concurrent or co-extensive with the poison. By these means a great portion of the American people were led to believe, that their wishes had been contravened in the choice of a chief magistrate, by a corrupt bargain between the first two officers in the government. The denials and refutations, though entirely satisfactory to a large portion of the commu-

nity, seldom reached the ears of those who had been made familiar with the charges. Party spirit, at first very much confined to the disappointed who expected offices under General Jackson, and those who held them under Mr. Adams, gradually diffused itself among the great mass of people. Every movement adapted itself with the regularity and skill of the most experienced generalship, to another contest.

*First meeting of the nineteenth congress.* The first session of the nineteenth congress was looked to with much interest. It commenced on the 5th of December, 1825. The house of representatives organized itself by the choice of Mr. Taylor, of New York, speaker, on the second ballot. The opposing candidates were Mr. Campbell of Ohio, and M'Lane of Delaware.

*Message.* The president's message, communicated on the 6th, was sought with eagerness, as indicative of the course of policy to be pursued by his administration. It presented a favorable aspect of the general concerns of the nation, foreign and domestic. Congress were informed, that the subject of the British colonial trade remained unadjusted, and the claims on France and other European powers, for spoliation unsatisfied. The principal subjects recommended to the consideration of the national legislature, were, an entire abolition of discriminating tonnage duties, as to the vessels of all nations, who would reciprocate the principle; a revision of the judiciary system; a bankrupt law; the establishment of an observatory; a national university; internal improvements on an extended scale; voyages of discovery; a uniform standard of weights and measures; and a review of the patent law with a view of extending its provisions. In the end the message suggests that some of the objects may not be within the provisions of the constitution; but recommends a liberal construction of that instrument, to adapt it to the present condition and wants of the nation.

*Liberal construction of the constitution.* Both the general and state governments exist by virtue of written constitutions, emanating from the people; the object of which has been to confer on the former, all powers relating to general national concerns, and on the latter, every thing of a local, municipal, and domestic character, both to be exercised in such manner, as to secure the rights, and promote the happiness of the whole. The great difficulty in the system has been to mark the boundaries of each, so as to

prevent conflicting claims. The message declares the federal constitution to be a charter of limited powers ; the position is no less true of the state constitutions ; each are limited by the general nature of their respective objects, and each requiring a liberal and extended construction to effectuate these objects. The national compact, formed in the infancy of the republic, could not be expected, in its specific provisions, to meet the exigencies of an extended empire in its maturity. In vain do we look in that instrument for any clauses, expressly authorizing the making of roads and canals, improving harbors, and the navigation of rivers, establishing corporations, purchasing libraries, bestowing money for charitable purposes, and least of all can be found in the constitution, any powers authorizing the general government to purchase additional territories, beyond the national boundaries, and incorporating them into new states as constituent parts of the union. Yet all these, and other equally extra-constitutional acts, have been done and sanctioned by the legislative, executive, and judiciary authorities, acting under the obligations of an oath, to support the constitution. The people have ratified these acts by the repeated re-elections of the agents by whom they have been accomplished.

To adapt the constitution of 1787 to the exigencies of the nation for a century to come, recourse must be had either to an amendment as often as a new case occurs, or to a construction extended far beyond the ordinary import of its terms. The former alternative, in a widely extended empire, and among a people jealous of each other, and possessing different and conflicting interests, would be often impracticable, and always inconvenient. Besides, it would destroy the beautiful simplicity of the original, and render its provisions complex and unintelligible. These considerations, operating in unison with that natural propensity ever to be found as well in individual as corporate bodies, to an extended construction of their own powers, have uniformly led to the latter alternative. Some expressions, of a general import, seem to warrant the constituted authorities in doing what they may deem to be for the public good, without looking for a special delegation of the power in the instrument under which they act. In the preamble the people say, that one object of their entering into this compact is "to promote the general welfare." They expressly delegate to congress the "power to lay and collect taxes and imposts," among other things "to provide for the general welfare," and they finally clothe

them with authority to make all laws necessary and proper to carry into execution the specific powers with which they are invested. In these general expressions the framers of the constitution say to those who shall thereafter administer it, "We cannot foresee or define all the specific objects on which it will be necessary for you to legislate. You must therefore do what, in your opinion, the public good or the general welfare requires, trusting to the good sense of your constituents for their approbation." And in the end they say, "If in any particular this instrument shall be radically defective, we have provided a way for its amendment."

Such were the prevailing views entertained by a majority of the national legislature of the nature of the instrument under which they were assembled, at the commencement of the first session of the 19th congress; though on numerous occasions the alarm that the constitution was in danger did not fail to be sounded.

*Discriminating duties.* In the senate, Mr. Lloyd, from the committee of commerce, made an able and luminous report on the subject of an entire abolition of the discriminating tonnage duties. The act making a difference of ninety-four cents a ton in the duties imposed on foreign and American vessels, entering the ports of the United States from foreign places, and an additional duty on their cargoes, was passed at the commencement of the government, for the express purpose of bringing into operation and protecting the navigation of the states against foreign competition. By that act, a foreign vessel of two hundred tons, making a voyage to the United States, and laden with a cargo of ten thousand dollars value, paid an excess of duties over an American vessel of the same size, and performing the same voyage, of eleven hundred and eighty-eight dollars. This regulation occasioned a sectional difference in the congress of 1791, similar in principle to the tariff of 1828. The southern interest, possessing little navigation, and bulky staples for exportation, considered it as a tax upon their industry for the benefit of the north; as their produce must arrive at foreign markets, charged with alien tonnage. The act, however, operated with a force almost magical, and in a short period created a mercantile, marine, and home competition, reducing freights much below what they were before the passing of the act. From a concise historical view of the operations of the act, and of the present state of American navigation, Mr. Lloyd clearly showed, that the

former had fully answered its design, and that the latter was able to compete on equal terms with that of any other nation. And in the spirit of an enlightened and liberal statesman, recommended an offer to the commercial world, to place American and foreign vessels on an equal footing. For this purpose a bill was introduced by the committee and passed with little debate, providing that the vessels of any foreign power, who should reciprocate the principle, should be admitted into the ports of the United States without paying any other or higher duties of any description, than what American vessels under similar circumstances were liable to pay; and treaties were made in the following summer with Denmark and Colombia on this basis.

*Amendments of the constitution.* The circumstances attending the presidential election in the two instances in which it had terminated in the house of representatives, made it evident that the frequent occurrence of such an event ought, if possible, to be avoided. In the senate, Mr. Benton, from a committee to whom the subject had been referred, reported a resolution for an amendment of the constitution, the leading features of which were, that each state should divide itself into as many electoral districts as they were entitled to members in both houses of congress; that the qualified voters should meet in each district at a specified time in the month of August, in the year 1828, and every fourth year thereafter, and give their votes for president, and vice president of the United States; the person having the greatest number of votes in the district, should be considered as having the electoral vote of that district, which should be counted one in the ultimate canvass. That congress should be in session on the second Monday of October, in the year 1828, and every fourth year thereafter, at which session the vote of each electoral district should be returned to the president of the senate, and counted, and the result made known. In case any person had a majority of the electoral votes, he was to be declared president for the next term. If no person had such a majority, the names of the highest two on the list were to be returned to the districts, and the voters again to meet at a given time in the month of the succeeding December, and give their suffrages for one of the two candidates. The electoral votes of each district were again to be returned to the president of the senate, counted, and the result declared in the same manner as on the first canvass; and only in the remote contingency of the two candidates on the second canvass, having an equal

number of votes, was the choice to be referred to the house of representatives. The same course throughout was to be pursued in the choice of a vice president, except, that in case on the first canvass there should be a choice of a president, and none of a vice president, the latter officer should be chosen by the senate from the highest two on the list. The resolution was accompanied by an able report, portraying at great length the evils incident to the present mode, and answering objections which might be supposed to exist against the one proposed:

In the house of representatives, ten or twelve resolutions were introduced by as many different members, on the subject of amendments of the constitution, relating to the presidential election, all professing to pursue the same object, but much diversified in character. One was in principle the same as Mr. Benton's. Another attempted to restore the original provisions of the constitution. The whole subject was referred to a committee of twenty-four, one from each state, who after many fruitless efforts, found it impossible to agree upon any mode, and asked to be discharged. This unsuccessful attempt to amend the constitution, in a point universally agreed to be defective, evinces the extreme difficulty with which any alterations in that instrument can be effected.

*Judiciary bill.* In the house of representatives, Mr. Webster, from the judiciary committee, reported a bill for establishing three new judiciary circuits in the west, and southwest. In those sections, the judges of the district courts had hitherto been invested with the power of holding circuit courts, with the same jurisdiction as those courts in the other states, when holden by a judge of the supreme court, associated with the district judge. This anomaly in the judiciary, to the disadvantage of the west, was remedied by the proposed bill. Its principles were generally approved. Its details occasioned considerable discussion. Having passed the house, it was amended in the senate by altering the arrangement of the new circuits, and the two houses not being able to agree, the bill, notwithstanding its acknowledged importance, failed.

*Internal improvements.* The congress of 1823-4, made provision for taking surveys and estimates for roads and canals, embracing a system of internal improvement upon an extended scale. Three objects deemed of primary importance had been attended to. One, a national road from the seat of government to New Orleans. Three routs were

examined, denominated the eastern, middle, and western ; the first passing through the principal cities in the southern states ; the second, along the base of the Allegany ; and the third, crossing the mountains and descending the valley of the Mississippi. The distance on the middle rout, which is stated to be something the shortest, is eleven hundred and six miles. The second important object, the first indeed in a national view, was the uniting the waters of the west with those of the Atlantic by a canal communication, commencing on the Potomac in the district of Columbia, and extending to the Ohio. The third, was the opening of an inland water communication, from the Atlantic to the gulf of St. Lawrence, by improving the navigation of Connecticut river, extending a canal from its head waters to lake Memphremagog on the borders of Canada, and relying on the Canadian authorities to extend it to the St. Lawrence.

The utility of these and other objects of internal improvement in a national view is unquestioned ; their importance for commercial, political, and military purposes cannot be doubted. Every road or canal, facilitating the intercourse between the east and the west, is an armor of defense and a bond of union, economical, permanent, and indissoluble. In a pecuniary view, every dollar judiciously expended on this object, is a profitable investment to the treasury. The United States are the proprietors of the soil, much of it indeed subject to an Indian title, which is held in little estimation, of the vast and inconceivable quantity of one thousand million of acres of land, all lying to the westward of the city of Washington. As a whole it may be denominated salubrious and fertile, and possessing advantages for the support of human life, equal to any tract of the same extent on the globe. This tract is in market, for the benefit of the treasury of the United States. The purchasers are from the east, who must pass the Allegany to view and occupy the territory. Any operation which facilitates this passage, and brings the land more to the view of purchasers, enhances its value. One of the first objects of a judicious landholder, possessing the territory of the United States west of the Allegany, would be a canal from the Chesapeake to the Ohio.

The impost, the great source of American revenue, is derived from the consumption of foreign articles : this again depends on the facility with which the consumer can obtain them. The population west of the Allegany, nearly balances, and will soon exceed that of the east ; their consump-



tion of dutiable goods is necessarily small, so long as the supply is dependent on a tedious and expensive land transportation. A safe and cheap water communication between the east and the west, will have a powerful and rapidly increasing effect on the customs.

The general government is the only power which can or ought to accomplish these objects ; that only has the means ; to that the states have surrendered their most important and productive sources of revenue ; and that only can direct the operations with beneficial effect. The public debt is nearly extinguished, and in considering future important objects is hardly to be taken into the account. After the period of its extinction, there will be nothing to which the great and increasing revenue can be profitably employed but to objects of internal improvement. The permanent means of defense, viz. fortifications and a navy, have been brought to that state of perfection as to put at rest all fears of invasion and aggressive war. A large unappropriated revenue affords powerful inducements to wars of ambition and aggrandizement, to which all experience proves republics are equally prone as monarchies.

In regard to most of the great objects of internal improvement, individual states have neither the means, nor sufficient interest to accomplish them. The great canal, connecting the waters of the Mississippi valley with the Atlantic, can never be accomplished by the states through which it passes, or those for which it is designed to open a communication. The contemplated national road from the seat of government to the great emporium of the southwest, though absolutely necessary for the safe transportation of the mails, and for the purpose of connecting that section of the union with the head ; and though of great utility to the states through which it passes ; if ever made must be by the agency of the general government. The same principle applies, though perhaps not with equal force, to the other great objects of internal improvement. Public opinion unquestionably calls for a liberal system on this subject ; and the only real question is, whether it can be done without an amendment of the constitution, expressly authorizing the measure. This appears to be one of those undefined objects, to which the framers of the constitution, under the head of " providing for the general welfare, authorized the application of the public funds. Jealousies that some sections of the union would get more than their proper share of the benefits, and that combinations might be formed by means of which the

moneys would be improperly distributed, have led to a proposition to apportion to the several states, the funds applicable to internal improvement according to their population, to be expended under the direction of the state authorities. A proposition, however well designed, is one which, in its operation, would defeat the whole object. Very few roads and canals, which are of sufficient public importance to require the aid of the general government, are bounded by the limits of a single state. Nearly all would require the concurrent operations of several. From a diversity of interests and views entertained by the several states to be affected, such a concurrence could not be expected. Important national channels of communication would require to be opened through small states in which they would themselves feel little interest, and to which their portion of the funds would be altogether inadequate. Connecting the waters of New York bay, for instance, with the Delaware, and those again with the Chesapeake, by canals across the states of New Jersey and Delaware, are objects in which those small states have comparatively little interest, and would never be accomplished by their proportion of the funds.

The question as to the constitutional powers of congress on this subject, has been frequently and fully discussed, and repeatedly decided in the affirmative by large majorities in both houses, against the opinions of presidents Madison and Monroe. These decisions seemed to have put the question at rest until the accession of Mr. Adams to the presidency. The administration of 1825 were known to be zealous friends of internal improvement. Much of Mr. Clay's celebrity rested on this basis. The opposition denounced the measure as unjust, partial, infringing on state rights, and unconstitutional. They derived great strength and support from the resolutions of several state legislatures in the south, declaring in unqualified and severe terms, that objects of internal improvement were not within the constitutional powers of congress; and that they were in violation of the jurisdiction, and territorial rights of the states within which they were attempted.

Though the subject of internal improvements afforded much opportunity for opposition to come out against the administration, the Panama mission was the great rallying point. The part which Mr. Clay had always taken in relation to the southern republics, added much to the zeal with which the mission was opposed. The propriety of the measure being judged of by the state of things at the time the

invitation was accepted, and not by subsequent events, it affords little ground to impeach the wisdom of the executive.

*Report of committee on reducing executive patronage.* The great master-piece of electioneering policy appeared in the report of a select committee of the senate, to whom was referred a resolution introduced by Mr. Macon, "to inquire into the expediency of reducing executive patronage." The report was presented to the senate on the 4th of May, just at the close of the session, and the very unusual number of 6,000 copies ordered to be printed for distribution. Its object seemed to be, to show that republics have a natural and unavoidable tendency to degenerate into monarchies, or the rule of a single person, under whatever name the government or its administrator may be designated; that this tendency arises principally from executive patronage; that in the American system, the president has under his control the whole host of officers, and persons who in any way receive emolument from the public treasury; that they again act upon a circle, more or less enlarged, of friends and dependents; to which is to be added, an army of expectants. The operations of this great engine, the committee apprehend, to be entirely directed by the president, and sufficiently powerful to govern the state and federal elections, and to assimilate them to the rotten boroughs, and the corrupt and tumultuous proceedings of the British system. The practice of selecting the principal executive officers from the halls of congress, the committee reprobate in unqualified terms, as tending to destroy the independence of the national legislature, and render them the mere registers of the executive will.

The vast power and patronage lodged in a single person, they apprehend, not only may, but certainly will be perverted to the most pernicious purposes. The president, they say, will dismiss faithful public servants, for no other reason but their preference of another man to administer the government, and in order to give him an opportunity to reward his friends. He will secure his influence in congress, by holding up to the view of the most aspiring and influential members, the highest offices in his gift. The committee, indeed, in many of their remarks, seem to have had in 1826 a prophetic view of the events of 1829-30.

They illustrate their subject by a number of extracts from what is denominated the blue book, being a list of all the persons receiving emolument from the treasury of the

United States, with the sums received by each. In the revenue department, in the port of New York, according to this list, they amount in number to one hundred and seventy-four, and their wages to \$148,921. In the port of Norfolk, in Virginia, forty-one officers are employed, at an expense of upwards of \$16,000, to collect a revenue short of \$65,000.

The liberties of the people, the committee apprehend, would be much less at hazard, if they had any controlling voice in the choice of the chief magistrate, by whom this mighty engine is to be wielded; but according to the present system, they have but a remote and inefficient voice. On the whole, the committee lament their inability to work out a radical reform, but present, as the result of their labors, and as only the commencement of what ought to be done, six bills, having for their object the reduction of executive patronage, recommending it to future legislatures to perfect the work.

One of the bills provided, that the selection of newspapers in which the laws and public advertisements should be printed, in each state, should be made by their respective delegations in congress. A second, that the postmasters at the larger offices, should be appointed by the president, with the consent of the senate. A third, that military and naval officers should be commissioned during good behaviour. Two others related to the mode of selecting midshipmen, and cadets for the military academy. The most important one provided, that the president, in his nominations to the senate, in every case where the vacancy had been made by the removal of a former incumbent, should state the reasons for such removal. The committee seemed to be well aware that this power placed in the president, to be exercised at pleasure, and without being required to assign reasons, was liable to great abuse; and that an injudicious, and much more a capricious use of it, was detrimental to the commonwealth. That a diligent, faithful, and intelligent performance of official duty, gave the incumbent a title to the confidence of his superior; and a reasonable expectation that he should not be removed without cause. They had not yet learned the doctrine, that rotation in the offices in the gift of the executive, was conducive to their faithful discharge; they supposed, indeed, that when to the other qualifications which the incumbent might possess, in common with many of his fellow-citizens, was added the important one of experience in the discharge of its duties, the public

interest would be jeopardized by a capricious change; more especially as he would, knowing he held the office by such a tenure, be induced to sacrifice public good to private emolument. In their opinion, offices created for the benefit of the community, should never be prostituted to reward favorites. They seem to have foreseen, that after a warmly contested election, the successful candidate would be strongly urged to make use of this all-powerful instrument to reward his friends, and punish his opponents; that his own inclinations, together with what he might suppose would be conducive to his re-election, would lead to the same object, and that their combined influence would be irresistible. They adduced no instances of such a corrupt and unprincipled course; no president having, as yet, ventured on the experiment of removing faithful officers, for the purpose of rewarding the active instruments of his election. But they argued with great force, as well from the imperfections of human nature, as from the history of other countries, that such might, and probably would be the case in future, which they considered as one of the last stages of degeneracy and corruption.

In another report, from the same committee, in which they recommend an amendment of the constitution, providing that "no senator or representative shall be appointed to any civil office, place, or emolument, under the authority of the United States, until the expiration of the presidential term in which such person shall have served as a senator or representative," they denominate this power of making vacancies, a kingly prerogative, and consider the exercise of it, when the vacancies are filled, for the most part, from members of congress, as effectually destroying the independence of that body.

The report, with its accompanying bills, after being published and distributed, has hitherto lain dormant on the files of the senate. The course pursued by the administration of 1825, in regard to the principal topics, was calculated to allay the apprehensions intended to be excited. No vacancies were made, on account of the part which the incumbent had taken in the preceding contest, and no undue proportion of such as occurred, were filled from the halls of congress. As an electioneering project, the report stands unrivalled in the annals of congress. It touched, with a masterly hand, the most sensitive chords, inducing a belief that a large portion of the revenue was expended in corrupting the purity of elections, not, indeed, by direct bribery.

but in a manner more fatal to the liberties of the people, by prostituting the power of removal and appointment to that purpose, and maintaining a host of useless officers, dependent on the executive will. That this enormous power was now in the hands of a chief magistrate, who was not the choice of the people, and who would make use of the whole weight of executive patronage, to secure his re-election.

The reports were ably drawn, and pointed out in strong language the prominent dangers to which the republic was exposed. The misfortune was, that this committee, who, in 1826, so faithfully warned the people against these dangers, should, in 1830, be reduced to the alternative of abandoning the principles of their reports, or the administration of their choice.

A bill for the relief of F. Larche, of little consequence in itself, which had passed the senate without opposition, in the house of representatives was made the occasion of a serious and protracted debate, on account of a principle supposed to be involved in its passage.

At the time of the invasion of New Orleans, a horse, cart, and slave, the property of Larche, was pressed into the service, and employed on the fortifications; and while thus employed, the slave was killed by a cannon shot from the enemy. The bill made provisions for paying the owner the value of the slave. The principle adopted at the close of the war, on this subject, was, that the United States should make compensation for private property, in public service, destroyed by the enemy, but not for human life; and the questions in the discussion of which the slave-holding and non-slave-holding states brought out all their forces, were, under which head the applicant's loss was to be classed, and whether slaves were property or persons? Aside from the obscurity thrown upon the subject, by the ingenuity of debate, it must have been perfectly evident, that they partook of the nature of both. Possessing the human form, features, and mind, they were properly considered as persons; being by the laws of Louisiana, the subject of use, traffick, and transfer, they possessed the essential ingredients of property. This being the only claim of the kind, the question was not worth, in a pecuniary view, a single day's debate; and its discussion, on this occasion, served no other purpose but to awaken sectional jealousies. The committee of claims, to whom the subject was referred in the house of representatives, recommend the rejection of the bill, upon principle: they say, that "the emergency justified the im-

pressment of every moral agent, capable of contributing to the defense of the place ; to call upon the master to defend himself and slave, as well as the slave to defend his master. It would be the height of injustice to call upon the free citizens of states many hundred miles distant from the point assailed, to pour out their blood, and sacrifice their lives, for its defense, and, at the same time, exonerate from that service its own physical and moral force. Men were wanted, and in that capacity the slave was put in requisition. The master, too, might have been called upon, and his sons, and his hired servants, as they were in other parts of the country, where sons, and fathers, and husbands, fought and died, without having their lives valued, or compensated in money.

The slave-holding states took the alarm at the principles supposed to be involved in this report. They considered it as amounting to a direct denial that slaves were property, and an assertion that government had right, in cases of emergency, to put arms into their hands. To such an extent was the excitement, that General Taylor, a senator from Virginia, thought it necessary to give the alarm to the executive of that state, by transmitting a copy of the report, with such remarks as his apprehension of the fearful nature of the consequences suggested. The governor of Virginia responded, that "it was a question big with the fate of the union, and one well calculated to alarm the sensibilities of the patriot."

No such views, however, were entertained by the opponents of the claim. They considered the property of the south in their slaves as sacred and untangible, as that in their houses, lands, and goods. They did consider, however, that in an emergency, like that of New Orleans, government had a right to adopt any measure deemed necessary for its defense. That human life, of which they supposed that slaves in common with others were possessed, which might be lost in the contest, was not to be compensated in money. The report was accepted in the house, and the question decided against the claim.

## CHAPTER XX.

Fourth of July, 1826—Death of Adams and Jefferson—How noticed—Important principles established during their political course—Freedom of political discussion, and of the press—Freedom of religious opinion—Its effects—Experiment of a state and national government over the same people—Difference of opinion, as to the manner in which conflicting claims of power are to be settled—Amelioration of criminal law—Confinement in penitentiaries substituted for corporal punishment—Imprisonment for debt ameliorated and nearly abolished—Laws relating to landed titles and the collection of debts improved—Internal improvements—Erie and Champlain canals—Other communications between the Atlantic and the west projected and commenced—Steam navigation—Its commencement, and rapid improvement—Fraud on the custom house at Philadelphia—Abduction of William Morgan—Project of a canal across the isthmus of Panama.

*National jubilee.* The 4th of July, 1826, completed fifty years since the declaration of independence gave birth to the nation. The day was noticed in all parts of the United States as a national jubilee. This anniversary, always affectionately remembered by the American people, had this year a peculiar interest. It seemed to be a period calling upon them to pause, look back, and observe the progress of events. Their numbers had quadrupled, progressing from two and an half to ten millions. Their wealth, strength, and means of defense had increased more than tenfold. From a small, scattered population, bordering on the western shores of the Atlantic, they had extended beyond the banks of the Mississippi to the base of the rocky mountains. The very singular occurrence on this day of the death of Adams and Jefferson, two of the three distinguished signers of the declaration of independence who lived to see its light, gave it a peculiar interest.

*Death of president Adams.* Mr. Adams died at his seat in Quincy, Mass., at six o'clock in the evening of the anniversary, at the age of ninety years. His illness, other than the general debility of age, was but of a few days continuance. A short period before his death, the citizens of Quincy requested his attendance at the proposed celebration. The infirmities incident to his years obliged him to decline, but he expressed his patriotic feelings in a sentiment to be used at their festive board—INDEPENDENCE FOR EVER.



*Of president Jefferson.* On the same day, at one o'clock in the afternoon, Mr. Jefferson died at his seat at Monticello, Virginia, at the age of eighty-three years. For some months previous, his strength had been gradually wasting by a disorder, which, by its slow and sure approaches, indicated the fatal result. He expressed a strong desire to see the jubilee of American independence, and that that might be the day of his departure. His wish was gratified.

*Their characters.* Mr. Jefferson was chairman of a committee of congress, of which Mr. Adams was a member, which prepared and drafted the declaration of independence. That instrument was from the pen of the former, who always gave his colleague, Mr. Adams, the credit of being its ablest supporter. As well from their talents, as from the circumstance that they represented two of the most important colonies in different sections, they had a controlling influence in congress. They were united in the important and hazardous measures which terminated in the union of the colonies, and their separation from the parent state. Supported by a population but a little more numerous than the state of New York at the present day, and with far less ability to resist, they, with their compatriots, fearlessly braved the whole power of Britain, with a certainty that death in its most appalling forms awaited them in case of failure. The chances, calculating upon any human means or probabilities, were all against them. They were both in the prime of life, one thirty-three, and the other forty, at the period of the declaration. Both were employed, and acted in perfect harmony in the highest political stations during the contest, and the fearful period which intervened between its close, and the commencement of the federal government. On the questions relating to the adoption of the constitution, and the leading measures of congress immediately thereafter, the people were divided into two great political parties, and nearly equally balanced; the one believing that too much of state sovereignty was yielded, and that the incipient measures were of too strong a character; the other, seeing no such imperfections in the system, were the advocates of an energetic course of conduct. Mr. Jefferson was the head of the former, and Mr. Adams, after the retirement of General Washington, of the latter. During the first two presidential terms, Mr. Adams held the second office in the government, by the national suffrage, and was himself president the third term. General Washington, with a liberality and

independence characteristic of that great man, appointed Mr. Jefferson to the first office in the gift of the executive. In the year 1800, Mr. Jefferson's party became the most numerous and by a closely contested election made him chief magistrate. During the long period in which party spirit prevailed with great asperity, these distinguished individuals at the head of each ever maintained great personal friendship. After the close of their political labors, they both enjoyed a long season of dignified retirement; Mr. Adam's a period of twenty-six, and Mr. Jefferson of eighteen years. Though feeling and ever manifesting a deep interest in the welfare of their country, they took no active part in the political contests of the day. Resident six hundred miles apart, they cultivated that intimacy which commenced in their early days by an interesting correspondence, evincing the happiness and tranquillity of mind, which a consciousness of a well spent life gives to its closing scenes.

The nation mourned their loss. By an order of the president, through the war and navy departments, appropriate funeral honors were rendered at all the military and naval stations, and the officers directed to wear badges of mourning for six months. In the principal cities and towns throughout the union, days were set apart for the same purpose, and funeral processions and eulogiums manifested a universal sentiment of national sorrow.

*Effects of the revolution.* On this point the people rested, and in some degree divesting themselves of local and party prejudices, took a view of the great moral and political consequences resulting from the revolution; in which these distinguished characters were among the most conspicuous agents. They have by no means been limited to the United States. The emancipation of the American continent from European colonization, now nearly accomplished, is to be attributed to this source. The bold and free discussions on the rights of man, flowing from the pens of these statesmen and their associates, have opened the eyes of politicians in other countries, have made impressions on the public mind never to be effaced, and have been felt and feared by every crowned head in Europe. During this half century, while most of the governments bottomed on what was supposed to be an immoveable basis, a hereditary nobility and monarchy, have been shaken to their foundations, exhibiting an almost constant succession of wars and revolutions, the American republic, since the

close of the contest which gave it birth, has enjoyed almost uninterrupted tranquillity. Two short domestic insurrections, which terminated without bloodshed, and a successful war of two years, in support of maritime rights, are the only exceptions.

*Freedom of political discussion.* One important principle, radically different from the European system, which has been carried into full effect in the United States, is, that perfect freedom of political discussion is not only consistent with, but highly promotive of, the stability of government. The leading maxims in monarchies are, that the king has a property in his subjects and their estates; hence the expressions so common in the royal dialect, *my people, my parliament, my kingdom*; and that all the rights and privileges the subject enjoys, are derived from the free gift of the crown. These doctrines are so utterly without foundation, that a discussion of them cannot be admitted without hazarding the existence of the governments of which they form the basis. Hence sedition laws, prosecutions for libels, and restrictions on the press, are ever found as the concomitants of the monarchical system. On the other hand, the republican principle taught by Adams and Jefferson, that rulers under whatever denomination they are designated, are the servants of the people, deriving certain definite powers from them, and to be exercised for their good, invites popular discussion: and the public agent who would endeavor to conceal his acts from the view and animadversion of the people, must calculate upon a short duration of his power. At a period of high party excitement, one attempt has been made to stifle inquiry into the proceedings of government, by a sedition law. This was indignantly frowned upon and put down by the voice of the whole people. It was one of the principal causes which produced the great political change in 1801. So jealous were the American people of this privilege of political discussion, that, immediately on the acceptance of the constitution, they provided an amendment, prohibiting congress from making any law "abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." To protect the citizens from constructive and political treason, the instrument itself provided that that crime should consist only "in levying war against the United States, or in adhering to their enemies." Publications, which in other countries would have brought upon their

authors heavy fines, imprisonment, or exile, are constantly issuing from the American press, and are attended with no other consequences than the salutary one of inducing the government carefully to review its measures, and correct those which are found to be wrong.

*Of religious opinion.* Another new, and no less important principle has been settled by the experience of this half century in the American republic, to wit, that a great nation may be well governed, successful, and happy, without the aid of a religion supported by or connected with the government. A union of church and state, an expression often used, and almost as often misunderstood, the only legitimate application of which is to the case where the government ordains creeds, and forms of worship for its subjects, which it compels them to attend and support, has never existed in the American republic. The liberation of the human mind from the shackles imposed on it by rulers claiming to control the religious opinions of their subjects, is an effect of the American revolution, second in importance, only to her political emancipation.

That man is a religious creature, disposed to pay homage in some form to an invisible being, who, he supposes, has an agency in human affairs, is a position, which all history and experience unite to establish. The solitary individuals who have at times been found to deny the existence of such a being, form but few exceptions. The principle may be said to be universal, as well among the most ignorant and barbarous, as among the most refined nations. Bottoming themselves on this ground, almost all governments have had religious establishments connected with their civil institutions. At the commencement of the American revolution, the principle was universal in Europe. Every Christian nation had its hierarchy, or religious establishment, the leading features of which were, that a tenth part of the productions of the earth, and of human labor, belonged of divine right to the church; that the monarch in protestant, and the pope in Roman catholic countries, was the head of the church, having power to dispose of its revenues; and to form creeds and modes of worship, and compel a conformity thereto, by pains and penalties extending even to death. The people of one government were subject to the severest penalties in this life, and doomed to everlasting punishment in the next, for opinions and conduct which in a neighboring state were deemed essential to salvation, and enjoined by the highest authority. None were permitted to

call in question the infallibility of the national church. The colonists, emigrating from countries where these principles were universal, though in many instances fleeing from the persecutions which they produced, were unable entirely to divest themselves of these deep-rooted prejudices. It seemed to have escaped their notice, that if persecution was wrong in one sect, when it had become dominant, it was equally so in all others, and that it was their duty to accord to their neighbors the same freedom of religious opinion, which they claimed for themselves. The first statutes of the colonial legislatures gave preferences to particular denominations. A liberal mode of thinking, however, diffused itself among a people collected from different quarters, and produced a great number of sects, but no one sufficiently numerous to contend with the united influence of all others in obtaining political preferences. In the conventions called to form the state constitutions, every variety of sect was found. It was in vain, that any dominant party endeavoured to obtain peculiar privileges for its own order, the invariable effect of such an attempt was, to bring upon itself the united opposition of all others. This induced a recurrence to first principles, which, however plain and self-evident in themselves, had never been adopted in practice in any nation; that all mankind have a natural, equal, and unalienable right to their religious opinions and modes of worship, and that no human tribunal has either the power or right to control them. Acting upon these principles, the framers of the state constitutions introduced into those instruments declarations, stating that "the exercise and enjoyment of religious profession and worship, shall for ever be free to all persons, and it being the duty of all men to worship the Supreme Being, and their right to render that worship in the mode most consistent with the dictates of their consciences, no person shall by law be compelled to join or support any religious associations." So jealous, indeed, were some of the states of ecclesiastical power, that they provided in their constitutions, that no priest or religious teacher should be eligible to civil office, thereby disfranchising a respectable portion of their fellow-citizens. Municipal regulations not being within the scope of the general government, it had nothing to do with religious establishments. The federal compact, in accordance with the principles of the state constitutions, merely provides, that no religious test shall be required as a qualification for office. Jealous, however, that, at some future period, a do-

minant sect might be disposed to infringe this sacred right, the people provided in the first article of the amendments made immediately after its adoption, that congress should make no law respecting an establishment of religion, or prohibiting the free exercise thereof. Forty years experience in this nation, has proved not only the practicability, but the excellence of this system, and the wisdom of those sages of the revolution by whom it was perfected.

*American system compared with the European respecting religion.* In its actual results, as well as in its theory, it is beyond comparison superior to the European. There the tenths, wrested from the hand of industry by a dominant hierarchy, are principally appropriated to support the high dignitaries of the church, who enjoy great revenues, and perform little service. A small portion of it only is applied to the support of the actual religious instructors of the people. The former are too proud and indolent, and the latter too poor to devote the requisite time to this object. Not dependent on the people for support, the parish priests feel little interest in their welfare; and the services required of them are performed, with many honorable exceptions indeed, in a careless manner, and with little effect. Obsequiousness to their ecclesiastical superior, that he may continue them in their present, or transfer them to a better living, is the governing principle: and implicit obedience to the doctrines of the church, as inculcated by them, is the all-important duty enjoined upon the people. The whole nation are compelled to support the established worship, however abhorrent it may be to their feelings; and dissenters esteem it a great acquisition, if they can be allowed to attend their own worship without molestation.

In the American system, religious teachers, being dependent on the voluntary contracts or contributions of their hearers for support, have every inducement to a faithful and intelligent performance of their duty. As a body, in the United States they will bear a favorable comparison with those of any other nation. And the Christian system itself, so far from languishing for the want of governmental support, flourishes best when resting on its own innate excellency. Errors and false notions on the subject are much more effectually overcome by free discussion and fair argument, than by the pains, penalties, and instruments of torture, with which orthodoxy is hedged about in European hierarchies.

This liberal system has produced learned and elaborate discussions on every subject connected with the present and future state of man, and manifested the great ingenuity of the human intellect in drawing an almost infinite variety of inferences and deductions from the same source. It has had a happy tendency to elucidate and establish truth ; and even the publication of the most erroneous doctrines have contributed to the same end, by the able answers which they have drawn forth. Disputants, indeed, often grow angry, and manifest much of a persecuting spirit, in their discussions ; and show what might be to be feared, had they the power of enforcing their doctrines by the civil arm. Public opinion, however, disapproves of these excesses ; and they seldom fail to injure the cause which they are intended to support. The almost infinite variety of opinion produced by this freedom of discussion shows the utter futility of any attempt to enforce a uniformity. An American, accustomed to examine for himself, can scarcely believe that there ever should have been an attempt to regulate and enforce creeds by law, and inflict pains and penalties upon those who could not conform their opinions to a standard framed by weak and fallible man. Such an undertaking would now be viewed as visionary as to attempt to introduce a uniformity of stature, complexion, or feature in the human system.

*Owenists.* One of the most singular sects to which this perfect freedom of opinion has given rise, is the Owenists, deriving their appellation from their founder, Robert Owen. Their distinguishing tenets were, that human nature was susceptible of such a degree of perfection as to do away the necessity of legal restraint ; that the productions of the earth, and the fruits of human labor, being designed for the common benefit of all mankind, ought to be held in common by all, or where that was impracticable, by reason of the deep-rooted prejudices already existing, that each individual, on arriving at the age of maturity, should have an equal share of property imparted to him, and that all before that period should have the same education ; that all the various systems of religion were so many absurdities, invented to enslave the human mind ; that the institution of marriage, and the restraints consequent thereon, was a tyrannical imposition, and ought to be abolished ; that there should be a perfectly free intercourse between the sexes, all children being the property of, and to be provided for by, the community. In such a state, human nature having attained perfection, no one would do wrong, or arrogate to himself more

of the common stock than belonged to him. By the novelty of these doctrines, and their accordance with some of the human passions, the leader drew after him a considerable number of adherents. To put this system to the test, they purchased a tract of land in the state of Indiana, on which they founded a society denominated New Harmony. One of their first operations was to establish a newspaper advocating the principles of their sect. The novelty of the scheme, and the prospect of bettering their condition with those who had but little to put into the common stock, brought together from different quarters into this community a singular people. For a short time its prospects were flattering. But it was soon found, that that perfectibility which was to be its basis, was not attainable, or at least that it did not exist in that community. The society soon declined, and was in effect dissolved. A female fanatic, embracing most of Owen's absurdities, afterwards went through the country lecturing upon his system, but not being noticed or persecuted according to her wishes, the system and its advocates are descending to oblivion, evincing how little is to be feared from attempts to propagate error in a free and enlightened community.

In a political view, this unlimited freedom of religious belief and discussion has the happiest effect. It creates in the heart of every citizen who values the privilege, an attachment to the government by which it is secured. The connection between civil and religious liberty is of that intimate kind, that neither can long exist without the other. This principle draws to the United States the persecuted of other countries, affording them an asylum from the oppressive edicts by which uniformity of religious conduct is attempted to be enforced by pains and penalties.

*Powers of the general and state governments.* The great principle, on which Adams, and Jefferson, and the other patriots of their day, founded this republic, to wit, that there may exist over the same people two distinct governments, independent of each other in their several functions, deriving their authority from the same source, with powers delegated to each, so definitely marked as to prevent fatal collisions, has been established by an experience of forty years. As was to be expected, in such a system, spread over a vast extent of territory, and embracing a population of different and conflicting interests, difficult questions on this subject have arisen. The administrators of the different governments, anxious at least to preserve all their legi-



ultimate powers, and to extend, rather than abridge them, have been led to put different constructions on the federal compact. On the question, in what manner, and by what tribunal, these conflicting claims of power were to be ultimately decided, Adams and Jefferson took different sides, the former contending that the power of ultimate decision was in the general government, to be exercised, in the last resort, by its supreme court; the latter, that it remained in the state governments, to be called into operation, indeed, only on extraordinary occasions—"in case of a deliberate, palpable, and dangerous breach of the constitution, by the exercise of powers not granted to the general government, when it would be the duty of the states to arrest the progress of the evil of usurpation, by maintaining the authorities, rights, and liberties, appertaining to them."

Power conferred for any purpose, and to any extent, is liable to be abused; the obvious, appropriate, and, in most cases, the only remedy, is the dismissal of the agents, and the appointment of others, more worthy of confidence. Not content, however, with this remedy, the states have, at different times, in their legislative capacities, sat in judgment upon the laws of the United States, and declared them to be unconstitutional. One of the first cases in which this state power was called into operation, was the lien and sedition laws of 1798; on which occasion the legislature of Virginia passed resolutions, drafted by Mr. Madison, maintaining the right of the state legislatures, in cases of manifest and dangerous violations of the constitution, to declare acts of congress void, and denouncing the alien and sedition laws, as of that description. Another and more alarming instance of these collisions, was the militia question of 1812, where several of the state governments claimed that they had a right to judge, when the emergency had taken place, which gave the general government the right of ordering out their militia. The decided manner in which the people of the union put down the pretensions of the state authorities upon this subject, it was hoped, would prevent future controversies of the like nature. But such has not been the effect. The power of congress to appropriate money to internal improvements, and to lay duties for the purpose of protecting domestic industry, have been denied, and laws made for these purposes, have been declared, by the highest state authorities, to be unconstitutional; and the people, so far as these powers could do it, have been absolved from their obligations to yield obedience to them.

The conflicting claims of the general and several of the state governments, in relation to the Indians of the southwest, have led to a declaration, on the part of one of the states; that they would maintain what they claimed to be their rights, with all their force. In every controversy of this nature, one or the other party must yield their pretensions, or a civil war must ensue. The general government cannot recede from their claims, unless, upon a re-examination, they should appear not to be well founded, without ceasing to be what the constitution has made them, the supreme power of the nation. The principle, that their acts are to undergo a revision by twenty-four independent communities, and such of them as do not meet the approbation of all, to be declared void, and resisted by some of the states, cannot be admitted, without annihilating the government. The only legitimate remedies for acts of congress, deemed to be injurious, or unconstitutional, by any of the states, are, either to procure them to be repealed by a change of men, or an appeal to the supreme court, who alone possess the power of deciding on the constitutionality of all laws, in the last resort. State rights, in opposition to the claims of the general government, is a popular subject, often resorted to for the purpose of obtaining office; but there is no fear that the successful aspirant will fail to exercise all its powers. After all the experience which has been had upon this subject, there is little reason to apprehend that the general government will yield any of its essential powers, though state combinations may sometimes force it into injudicious or unwholesome measures.

*Amelioration of criminal law.* Another important particular in which the American nation, if not alone, is certainly far in advance of European governments, is the amelioration of the system of criminal law. The sanguinary codes, and barbarous and inhuman punishments have been gradually, though but slowly, softening down in Europe. Howard, the great English philanthropist, has done much to better the condition of the unfortunate tenants of jails, whether for debt or crime. But in the United States, alone, since the revolution, has there been a radical change in the principles of law relating to the prevention and punishment of crimes. Legislators have been gradually restricting capital punishment to the crime of murder, and a few others, of the deepest dye; and where it has been retained, it has been inflicted by the simple act of taking life, with the least suffering. So far, indeed, have the principles of humanity

progressed, that many have been induced to believe, that the punishment of death ought, and might, with safety to the community, be wholly discontinued. The practice of making executions public, with a view to be a terror to offenders, has been found to have a tendency to produce, rather than prevent crime, and is giving way to a private manner of execution. Public feeling towards criminals, is of a compassionate, rather than a revengeful character. The idea that human tribunals are to be the avengers of crime, and to inflict punishment as an atonement for the offense, has passed away with the dark ages in which it originated; and the only legitimate object of criminal law, is considered to be the prevention of crime, leaving the atonement to a higher tribunal. On these principles, the infliction of pain on the human body, and stamping on it indelible marks of infamy, by stripes and branding, so common in other countries, and in this at former periods, has been done away, as also exposing the criminal to public gaze, in the pillory. Ignominious punishments, of this description, have been found to have the effect of cutting off all hopes of reformation in the offender, and to have no operation as a terror to others. The milder course of imprisonment has been substituted for punishments which mangle and deform the human body.

*Penitentiaries.* Prisons have assumed the more appropriate name of penitentiaries, and are designed, by a course of rigid and wholesome discipline, to reform the offender. In effecting this change, it became necessary to make various experiments, that of entire solitary confinement, each prisoner to a separate cell, without any communication with his keeper, or being allowed to see the hand that fed him, was early resorted to; but was found too severe. A total seclusion from all society, in a state of perfect indolence, is found to be the most severe of human punishments. Both the body and mind in a state of inactivity, lose their energies, and the culprit, if continued for any great length of time in this situation, becomes an idiot, or a poor broken down object of compassion. The course more recently adopted, and which promises the best results, is entire solitary confinement during the night, and hard labor with wholesome fare during the day, and such vigilant watching as to prevent any communication among the prisoners, accompanied with moral and religious instruction. A correctional system, bottomed upon these principles, has been in successful operation for some time. After the first cost of the establishment,

the income resulting from the labor of the prisoners has, in several instances, yielded a small revenue to the state, beyond the expenses, while its wholesome discipline has effected a reformation in considerable numbers of the offenders. In several of the large cities, houses of refuge have been established, principally by private charity, where vagrant children and juvenile offenders, of the smaller class, have been sent to be instructed in the rudiments of learning, in some useful employment, and in moral and religious principles.

*Imprisonment for debt.* The laws relating to imprisonment for debt, have been in a state of progressive improvement, in nearly an equal degree with those regarding crime. The revolution found a principle, derived from the parent state, deeply rooted in the systems of colonial jurisprudence, to wit, that the creditor had a right to the body of his debtor as a pledge for the security of his debt, and to imprison it at pleasure, until satisfaction was obtained. In some instances, the laws provided for the assignment of the debtor in service, for the payment of the debt; this, where the debt was of considerable magnitude, authorized perpetual slavery. This principle, undergoing that freedom of examination, introduced on all subjects, by the revolution, was found to be radically wrong. In practice, the body of the debtor was often taken and incarcerated for long periods, to the ruin of himself and family, when it was evident that no other object could be obtained, than the gratification of one of the worst of human passions. The only legitimate object of imprisonment for debt is, to compel the fraudulent debtor to disclose, and apply to the payment of his debts, funds in his possession, which the process of law could not otherwise reach. Where this object can be obtained by other means, the imprisonment of the person is manifestly wrong. In this view, the object of state legislation has been to extend the remedy against the property, and restrain it as to the person of the debtor. In some of the states, imprisonment for debt, except in case of fraudulent concealment, or conveyance of property, has been entirely abolished. In others, provision is made for the release of the body of the debtor, on his making a fair assignment of all his property for the use of his creditors; so that in effect, imprisonment for debt, uncontaminated with fraud, may be considered as at an end in the United States.

*Lands.* The laws likewise relating to landed property, have undergone material improvements. The first settlers

of the North American colonies came from countries where the whole domain of the kingdom was supposed to be vested in the king, and of his free grace parceled out to his subjects on certain conditions. All real estate was considered as held of him, as the superior lord of the fee. A powerful hereditary nobility, deriving wealth and influence from the possession of great landed estates, was supposed to be a necessary appendage of monarchy. Laws having in view the preservation of these estates, in single persons, regulated the transfer and descent of real property. The colonial laws partook of the same character. The revolution dissolved this charm, giving to the proprietor an absolute dominion over his estate, with power to dispose of it at pleasure. The laws of the several states, relating to the transfer and descent of real property, have been gradually conforming themselves to the liberal principles introduced by the revolution, seeking a division of land into small portions, rather than an accumulation of great estates in the hands of individuals.

*Civil Process.* In the administration of justice also, important improvements have been making, and are in progression. The processes by which parties and their cases are brought before courts, have been disencumbered from many of the tedious and expensive forms of British jurisprudence. English precedents are referred to so far only as they are founded in reason, and applicable in their principles to this country. A system of American common law, resulting from the decisions of the supreme court of the United States, and the highest state courts, has, for a long period, been gradually maturing, which will, in a great measure, supersede the necessity of resorting to English authorities. In every important case, the judges give elaborate opinions, which are reported at length, explanatory of the principles of their decisions, as precedents, obligatory upon the same courts in future cases, and on inferior courts within the same jurisdiction; and though not of absolutely binding authority, are yet of great weight in all other American tribunals.

*Internal improvements.* The important subject of facilitating the intercourse between the distant parts of the United States by improved roads and canals, early attracted the attention of the government and its citizens. The heavy debt of the revolutionary war, and the want of capital, for a considerable period, prevented extensive operations. The subject, however, was never forgotten, or suffered long to

rest. Well constructed turnpike roads, connecting large towns, or leading from the interior to the markets on the seaboard, were early established by the enterprise of private companies. The great navigable rivers by which the country was penetrated, the lofty mountains dividing the east from the west, and the great inland seas, extending a thousand miles on the northwestern border, indicated as well the objects to which the national efforts should be directed, as the obstacles which must be overcome.

*Erie canal.* The project of uniting the waters of the lakes on its northwestern border with the Atlantic, early attracted the attention of scientific and enlightened men, in the state of New-York. In 1810, the legislature appointed a board of commissioners, consisting of nine of their distinguished citizens to investigate the subject. They reported that the object was of immense utility to the state and nation, and that the scheme was practicable at an expense probably not exceeding four millions. Two plans were contemplated, one to extend the canal no further than the east end of lake Ontario, and connect the navigation of that lake with Erie, by canalling around the Niagara falls. The other, to extend the canal in as direct a line as was practicable, from the Hudson, near Albany, to lake Erie. The commissioners, for reasons universally satisfactory, gave a decided preference to the latter. They reported that the object was too important, and the expense too great for individuals or private corporations, and that in their opinion, it ought to be done at a national or state expense. On their report, the legislature directed application to be made for assistance to congress, and several of the state legislatures who were supposed to be most deeply interested in effecting the objects. These applications were unsuccessful. The war of 1812, suspended all further proceedings. At the same time the incidents of that war produced a thorough conviction, that as a means of defense, it was one of the most important operations which could be presented to the government. The principal scene of action being on the Niagara frontier, the army, with all that appertained to it, had to be transported upwards of three hundred miles, over bad roads, at an expense sufficient to have made the canal. In a commercial view, opening as it does, to the Atlantic trade, the whole northwestern country, its importance is incalculable; and as a bond of union between the east and the west, it is looked to as one of the great foundations on which rests the stability of the nation.

Soon after the peace of 1815, the state of New York, having failed to obtain aid either from the general or any of the state governments, resumed the business with great energy, relying altogether on her own resources ; connecting at the same time with this greater object, the plan of a canal from lake Champlain to the Hudson. The same commissioners were appointed for both purposes. The undertaking, in its incipient stages, met with great opposition. It was considered by many as visionary, or at least premature, and far beyond any resources that the state could command. The late Governor Clinton, having been appointed one of the commissioners from the first, engaged in the business with great confidence and alacrity. His resolution and perseverance seemed to increase as difficulties occurred, and finally enabled him to surmount them all. He staked his whole popularity and weight of character on the successful issue of the undertaking. Since its accomplishment, others have claimed the credit of originating the plan. However it may have been thought of and incidentally talked of by others, public opinion has awarded to De Witt Clinton the merit of maturing the plan, and devising and applying the means of its accomplishment.

The financial part of the plan was, to borrow money on the credit of the state as it was wanted, pledging certain revenues which the state could command, together with the tolls which might accrue, for the payment of the interest, and reimbursement of the principal. The chief taxes appropriated to this object, were upon sales at auction, and on salt, manufactured at the Salina springs, in the western section of the state. These springs remain the property of the state, and are inexhaustible. The line of canal passes near them, and a short side cut affords water carriage direct from the manufactories. The canal benefits them more than any other one object. By means of it, the manufacture is greatly extended, and the article is furnished to the consumer with the canal duty of twelve and a half cents a bushel, at any considerable distance from the springs, much cheaper than they had been accustomed to receive it without the duty, and without the aid of water transportation. Another object proposed was a tax upon the lands in the neighborhood of the canal, bottomed upon the special benefits they would derive from it, and graduated according to distance, and other circumstances. This, though a very legitimate and proper source of revenue for the purpose, was found in its details to be of so difficult adjustment, that it was abandoned.

*Principle of canalling.* It being ascertained that there is a sufficiency of water to feed a canal at the highest point, called the summit level, to which it is necessary to carry it, all impossibilities are removed. The highest mountains, and deepest valleys can be passed by locking, and the question resolves itself into a matter of expediency, depending upon a comparison of the estimated expenses with the advantages. On a survey of the country between the Hudson and lake Erie, executed with great accuracy, it was ascertained that the waters of the lake were 565 feet higher than those of the river at Albany, that a feasible rout could be obtained, and that a sufficiency of water might be had at the summit level.

*Commencement and completion of the canal.* All the preparatory steps having been taken, the ground was broken on the 4th of July, A. D. 1817. And the first boat from lake Erie arrived at New York on the 4th day of October, A. D. 1825. The whole length is 360 miles. The operations of the Champlain canal, running near the margin of the Hudson, and lake George, from Waterford to Whitehall, went on at the same time, and under the same commissioners. The expenses of both, constituting the canal debt, amounted to nine millions, one hundred and twenty-three thousand dollars.

Their utility, the amount of business done on them, and their income, exceeded the most sanguine expectations. The canal fund will speedily extinguish the debt, when the tolls will be applicable to any purposes which the legislature may direct. One important benefit resulting from the successful issue of this enterprise, has been to excite public attention to canalling, and internal improvements generally. It has produced a laudable ambition in other states, and shown them what obstacles may be overcome, by persevering and powerful efforts.

*Rail roads.* Three communications between the Atlantic and the valley of the Mississippi, have since been undertaken; one by the state of Pennsylvania, from Philadelphia to Pittsburg; the second, a rail road from Baltimore to the Ohio river. This species of internal improvement is founded upon the principle, that on a horizontal level, nothing impedes motion, but the friction occasioned by the contact between the moving body, and the surface on which it moves. The art of making rail ways is found to consist in forming this level, or bringing inequalities to it, as near as may be, and reducing the friction to its lowest point.



For the latter object, channels are formed of polished iron, and carriages constructed with wheels shod of the same material, and fitted to the channels. A small propelling force moves carriages thus constructed, although heavily laden, with great velocity. For short distances, and where the country is not hilly, this has been found in Great Britain, to be an economical mode of communication. Nothing bearing any comparison, or scarcely an analogy to the Baltimore and Ohio rail road, running a distance of upwards of three hundred miles, and over a high ridge of mountains, has ever before been attempted; and it yet remains for the enterprise and skill of the citizens engaged in this undertaking, to test its practicability. The third, a canal from the Potomac, at Georgetown, to the Ohio river. Individual enterprise in the last two mentioned undertakings, has been liberally seconded by the general government. The rail road and canal come in contact, near the foot of the Allegany, and though the companies are distinct and in some respects hostile to each other, it is desirable that their efforts should be united in obtaining the best passage, and but one for both objects, across the mountains.

*Ohio canal.* Another great enterprise, to which the Erie and Hudson canal gave birth, and which is intimately connected with it, is a canal leading from Cleaveland, on lake Erie, to the mouth of the Sciota, on the Ohio river. The ceremony of opening the ground, or removing the first shovel full of earth, was performed by Governor Clinton, called from New York for that purpose, on the 4th of July, A. D. 1825. The work was undertaken solely by the state of Ohio, is in successful progress, and when completed, will open an inland navigation, through a fertile country, from the city of New York to New Orleans, a distance of nearly three thousand miles. Many other enterprises of less importance, have been undertaken, and are in different stages of progress in various parts of the United States; all tending to bring together into a closer union, the different parts of this extended empire, and make the people one, in manners, habits, and interests. Although some of them may be premature, or injudicious, and may expose those concerned to heavy losses, yet much good has already resulted, and much more is to be expected from a persevering course of internal improvements. The important question on which scientific men have been divided, whether for long distances, and over a hilly country, rail roads or canals

are the preferable mode of communication, is in a train to be decided by the only sure test, that of actual experiment.

*Steam navigation.* But by far the most important event in the history of human improvements, in the last half century, and which Adams and Jefferson lived to witness, is the successful application of steam to the purposes of navigation. The principles of this agent had, for a considerable time, been tested in the large English manufacturing establishments. Its ability to propel vessels against wind and tide, was never believed or scarcely thought of, until brought into successful operation by Robert Fulton, a citizen of New York, about the year 1810. For the purposes of coasting and lake navigation, its advantages are immense. Its greatest utility, however, is in overcoming the obstacles to the ascending navigation of rivers. Without the aid of this power, the large streams descending from the highlands of the interior, are to be ascended only by the slow and laborious operations of the oar against a rapid current; by it, heavily laden boats are carried up the streams at a rate from six to twelve miles an hour. Its effects are the most striking on the condition of the people of the Mississippi valley. The ascending navigation of that river and its tributaries was of so difficult a nature, as to be of little use. The inhabitants were accustomed to float their produce down on frail arks, to New Orleans; there dispose of their boats and cargoes, seek supplies on the Atlantic seaboard, subject to a difficult and expensive land transportation, over the Allegany; the whole making a voyage of nearly six months. By the aid of steam, a few weeks are now sufficient to bring their produce to the great market of the west, and obtain supplies by the same channel. Two hundred large boats driven by steam are now running on the western waters;\* and their numbers are constantly and rapidly increasing. This discovery computing distances by the time and expense necessary to perform the journey, as between the cities on the seaboard, relative to each other, and between them and those on the margin of the large rivers, has reduced them more than two thirds. The persevering ingenuity and talents of Fulton have not been sufficiently rewarded. He spent his time and a considerable fortune in accomplishing the object. He lived long enough to bring his great improvement into successful

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\* April, 1830.

operation ; but its progress and the perfection to which it has attained since his death has exceeded all calculation. He died, leaving to his family but little patrimony, excepting the imperishable fame of being the founder of steam navigation.

Few incidents of a general character, of sufficient importance to be recorded, occurred in the year 1826. It was a period of a short political calm, between the presidential elections of 1824 and 1828, in which the combatants reposed on their arms, and prepared for the approaching conflict.

*Tea case.* An extensive fraud was practised on the custom house at Philadelphia, by an importer of teas, by which the revenue sustained a heavy loss. The importer is allowed a credit of two years on that article on giving bonds with surety, to be accepted by the collector for the amount of duties, or he may give his own bond with a deposit of the teas in warehouses to be provided by him, and approved by the collector ; and to which both have access. The owner is allowed to sell and remove them at pleasure, on payment of the duties to the amount of what he sells. In this instance the importations and deposits were very large. Frequent and extensive sales were constantly making, for which permits for removal were obtained from the collector. This officer having confidence in the importer, did not examine the warehouses so often, and with so much attention as to detect fraudulent removals. At length it was found, that the stores were nearly emptied, and large quantities removed without the payment of duties. Three hundred and fifty chests of these teas were traced to New York, and seized by the custom house, in the hands of an honest purchaser, without notice of the fraud. They were libelled and condemned in the district court, as forfeited to the United States for non-payment of duties. The judgment was reversed in the circuit court, and the teas finally held by the purchaser.

*Morgan case.* Another incident, which from its singular character, and the consequences resulting from it, deserves notice, took place in the western part of the state of New York. In September, 1826, one William Morgan, a native of Virginia, but then resident at Batavia, in the state of New York, a member of the fraternity of freemasons, taking some disgust at the members of the lodge to which he belonged, and desirous of bringing himself into notice, wrote a pamphlet containing an account of a number of ceremonies, which he stated to be the secrets of free

masonry, and put it into the hands of a printer for publication. The brotherhood in that region taking the alarm, and acting under a very mistaken notion of what they apprehended to be their masonic duties, determined to suppress the publication, and put it out of the power of Morgan to reveal their secrets. With this view they seized Morgan, and under the pretense of a small debt, first committed him to jail in Canandaigua; soon afterwards removed him in a secret manner to fort Niagara, on the border of lake Ontario, and thence conveyed him across the river, expecting that the masons residing at Newark, on the Canada side, according to a previous arrangement, would take him off their hands, and so dispose of him as to prevent future disclosures. The Canada masons, by this time, apprehending more danger to themselves if they should undertake to dispose of Morgan, than would result to their order from his disclosures, refused to receive him. Their refusal created much consternation in Morgan's abductors; they knew not what to do with him. Should they release him, he doubtless would complete his disclosures, and subject them to heavy civil and criminal prosecutions. They finally determined on conveying him back, and lodging him in the magazine of the fort, then under the care of a single person who was himself a mason. This was done; and here ends the history of Morgan's fate, as far as is known. He has not since been heard of. The most probable supposition is, that some ruffians, soon afterwards, drowned him in the river.\*

A pamphlet soon afterwards appeared, said to be the one which Morgan had written, and obtained a circulation which its merits did not deserve, and which but for the peculiar circumstances of the case it would never have had. The government of the state of New York, at whose head was a distinguished mason, exerted themselves with a highly commendable zeal in tracing out the authors of this outrage. It was found to have been planned and executed, so far as related to the abduction of Morgan, and the attempted suppression of his pamphlet, by a combination of masons in that region. As no such case had ever before occurred, or been thought of, there was no statute of the state, defining the crime, or meting out its punishment. It fell, however, under the undefined head of high crimes and misdemeanors; by virtue of

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\* Report of John C. Spencer to Governor Throop, January 26, 1830.

which several persons, otherwise of respectable character, were convicted, and sentenced to fines and imprisonment for different periods.

The matter would have rested here, but for that unquiet and ambitious spirit, often the concomitant of a free government, and ever disposed to seize favorable opportunities to accomplish its own objects. Public excitement on this occasion rose to the highest pitch. The flame was fanned by numerous anti-masonic associations. The stigma of the Morgan affair was endeavored to be fixed upon the whole fraternity. The papers for a considerable period were filled with renunciations of masonry, accompanied in some instances with disclosures said to be the secrets of the craft. Such a violation of obligations which persons had voluntarily taken upon themselves was not attended with the expected applause. The real object was apparent: and the public were not satisfied that any correct sense of duty required a person to become a traitor to a society to which he had of his own free will joined himself. During the height of the excitement, anti-masonry in various parts of the country became a great political engine in scrambles for office.

The points endeavored to be established against the institution were,

That the obligations which masons took upon themselves were inconsistent with the duties which they owed to society:

That secret associations were dangerous to civil liberty, inasmuch as they afforded favorable opportunities for political combinations for the benefit of their own members:

That if their principles and objects were good, there was no need of secrecy; if otherwise, they ought to be suppressed.

Masonry has at different times been the object of jealousy and suspicion in several nations where it has been established; in some it has been proscribed and suppressed by the hand of arbitrary power. Its members have been driven from the territory, or otherwise punished with severity. In the United States, the only power which masons have to fear, is public opinion: should that be against them, their order will decline, and become extinct. So long as the laws of the land are not violated, the only punishment masons have to dread, is a proscription from office.

*Canal across the isthmus of Panama.* Soon after the liberation of the South American provinces, the project of

a canal uniting the waters of the Atlantic and Pacific oceans attracted much public attention. Its importance to the commerce of the United States is obvious, affording such facilities to the East India and China trade, as would place it in a great measure at the command of the enterprise of their citizens. The long projected occupation of the western coast at the mouth of the Columbia river would then be no longer a matter of doubt or hazard. In the year 1825, the congress of Central America, a small republic, embracing the territory of the isthmus which had assumed that name, passed a law that a canal should be opened to connect the navigation of the two oceans, and issued an advertisement inviting the enterprising of all nations to offer proposals for executing the work. Among a variety that were offered, those made by a company of American citizens, principally from New York, were accepted, and in 1826 a contract for the purpose of effecting the object was entered into, the leading points of which were,

That the republic should indemnify its citizens for damages to their lands; that it should furnish every facility for accomplishing the object, by permitting the cutting of timber, and procuring materials and workmen, and supplying all the plans, charts, and levelings which had already been taken, and facilitate the making of such others as might be necessary, and be at the expense of erecting and supporting such fortifications, and employing such vessels of war, as might be necessary to protect the navigation. The company to be at all other expenses, and to have two thirds of the tolls until reimbursed their capital and ten per cent. interest; the other third to belong to the republic. The plan proposed was a ship channel from one ocean to the other, through the Nicaragua lake; through which vessels were to be towed by steam-boats. The company to have the exclusive right of navigating the canal, and towing vessels by steam for twenty years, with the right of fixing the amount of freight for cargoes and passengers in their boats, and the compensation for towing vessels. The navigation to be free for the vessels of all friendly and neutral nations on paying the fixed rate of tolls. The republic reserved the right for its citizens to subscribe five per cent. of the capital stock.\* The instability of the government, the revolutions to which

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\* Niles' Register, September 30th, 1826.

they have been subject, and other causes, have hitherto prevented any progress in the undertaking. Such an examination has been had, however, as to induce a fixed belief that the object is practicable, and, in a more settled state of society in those republics, will be accomplished.

## CHAPTER XXI.

Second session of the nineteenth congress—Message—Papers relating to the British colonial trade—Report of the committee of commerce—Value of the trade to the United States—Commercial spoliations—Report of a committee—French spoliations antecedent to Sept. 30th, 1800—Report of a committee of the senate in favor of their being paid by the American government—The woolens bill—Its discussion and passage in the house—Postponed in the senate—Sectional divisions on the tariff question—Meeting and proceedings of the Harrisburgh convention—Columbia convention, and resolutions—Dr. Cooper's address—Vice president's appeal to the house in relation to a charge against him found in a newspaper—Report of a committee on the subject—A challenge—Baker's case—Northwestern boundary.

*Second session of the nineteenth congress.* The second session of the nineteenth congress commenced on the 4th of December, 1826. The message received on the 5th, contained a minute and flattering detail of the concerns of the nation, foreign and domestic, but nothing of peculiar interest. The new subjects of legislation suggested in the message of 1825, not having met the approbation of congress, were barely hinted at in this, and no others suggested. The second session being necessarily a short one, admits of little legislation, except the ordinary business of the government.

*West India trade.* Accompanying the message, were the papers relating to the negotiation with Great Britain on the subject of the colonial trade. Mr. King being obliged to return on account of ill health, Mr. Gallatin was appointed his successor, specially charged with this subject, and authorized to give up the point on which a former negotiation had been suspended, viz. that the produce of the United States should be admitted into the West Indies on the same terms with that of the Canadas. On communicating to Mr. Canning that his government were desirous of renewing the negotiation on more liberal terms, and would not insist on the contested point; he received a reply from the British minister, which after an elaborate defense of the claim to monopolize the colonial trade, concluded by informing Mr. Gallatin, in a sarcastic manner, that as the American government did not see fit to accept of the



boon at the time, and on the terms in which it had formerly been offered, the British government were not bound to continue the offer, or accept of any terms now; and that any further negotiations would be useless.

The importance of this commerce to the United States is every day diminishing. The whole white population of the British West Indies, amounts only to 71,350, with 626,800 slaves, and 78,350 free people of color.\* Their great staple, without which the trade would be of no consequence, is the product of the sugar cane. The acquisition of Louisiana and the Floridas, and their rapid progress in the cultivation of this article, aided by a protecting duty, will very soon furnish an adequate domestic supply. What is now wanting is readily obtained, and on fair terms, from other sources. The rapid settlement and improved agriculture of Upper Canada, aided by their great progress in inland navigation, enable them principally to supply the lumber, provisions, and live stock, necessary for the West India market; and should any be wanted from the United States, it is readily obtained from other islands, with the inconvenience of a double freight to the consumers. Should the United States be able to command the whole supply of this market, the demand would be too small to have any permanent or perceptible effect on the price of their produce. This government have appeared in the character of suppliants for this trade, denominated by the British government a boon, ever since the close of the late war, without success. It would seem to be long enough, and should the British be permitted to enjoy the monopoly, without further importunity, no serious inconvenience would result to the commerce of the United States.

*Report in the house of representatives.* In the house of representatives, the subject was referred to the committee on commerce, of which Mr. Tomlinson, of Connecticut, was chairman. His report contained a lucid view of the British monopolizing policy in relation to their colonial trade, the various propositions which had been made to place it upon a footing of reciprocity, and the manner in which they had been met. The report concluded with recommending a bill closing the United States ports against British vessels, coming from their colonies, with the exception of the East Indies and Upper Canada, and prohibiting British vessels from transporting American productions to these colonies.

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\* Baron Homboldt.

*In the senate.* In the senate, the subject was also referred to their committee on commerce, of which Mr. Johnson, of Louisiana, was chairman. His report contained a similar view of the case, and concluded with recommending a bill prohibiting all intercourse with the colonies, either in British, American, or other vessels, until the trade should be placed on a footing of reciprocity. Both of the proposed bills provided that the restrictions might be taken off by proclamation of the president, whenever he had satisfactory evidence that the British government had placed the trade on such footing. Owing to a disagreement between the two houses in some important particulars, neither of the bills became a law. It may be proper to add, to close the history on this subject, that the administration of 1829, appointed a new minister, with instructions to renew the negotiation, with great confidence of success, which, after a labored discussion of several months terminated, as all preceding ones had done, without effecting the object.

*Claim for deported slaves satisfied.* On the other subjects with which Mr. Gallatin was charged, the British government manifested an accommodating disposition. He succeeded in obtaining a final adjustment of the claim of American citizens on the British government, for slaves carried away by their commanders, at the close of the late war, contrary to the first article of the treaty of peace. By a convention of the 13th of November, 1826, twelve hundred and four thousand nine hundred and sixty dollars was paid into the treasury of the United States, for the use of their citizens, who had been sufferers by the infraction, in full satisfaction of their claims.

*Claims for commercial spoliations.* At the preceding session, a resolution passed the house of representatives, directing the secretary of state to prepare a schedule of claims of American citizens on foreign governments for commercial spoliations, and lay them before the house at this. In obedience thereto, the secretary presented a list, amounting to something more than fifteen millions of dollars, two thirds of which were on the French government, the remainder on Naples, Denmark, and the Netherlands, those on Great Britain having been cancelled by the war of 1812, and those on Spain, satisfied by the provisions of the Florida treaty. This report, together with several memorials on the same subject were referred to the committee of foreign relations. An unsuccessful application, pursued almost uninterruptedly for ten years, to those governments for redress,

gave little hopes of obtaining satisfaction, and presented the question to congress; what course does the honor and interest of the nation require them to pursue in case of ultimate failure? As between the United States, and the governments inflicting the injury, no doubt reprisals would be justifiable, on principles of national law, and this government would have the right to take the property of the subjects of those powers to indemnify its citizens wherever it could be found. There being no common tribunal competent to decide upon, and able to give redress for national injuries, after negotiation is exhausted, the right of appeal to the sword succeeds, and where the injury is great and obvious, a war induced thereby is strictly of a defensive character. The expediency, as well as the time and manner of enforcing this appeal, rests with the injured party. This nation has exhibited an example of forbearance, almost without a parallel. Three of the four aggressing powers are much inferior in wealth, population, and resources, to the United States, and might be compelled to do justice without the hazard of a protracted war. The committee think that it would not comport with the honor of the nation, to enforce the claims against them, leaving those of France undressed; and as against her they think the time has not arrived, when it is proper to make an appeal to arms, they therefore recommend further negotiation, expressing a confidence in the justice of that nation, and ask to be discharged.

As between the government and its injured citizens, another question arises, is the nation bound to seek redress by arms, or indemnify them from the public treasury? Allegiance on the part of the citizen, and protection by the government, are reciprocal rights and duties. So long as the former remains with his property within the territorial jurisdiction of the latter, his right is absolute; but if he chooses to place himself on the ocean, or in foreign countries, he cannot claim, as matter of right, that the government should follow him with their protecting shield, subjecting the lives and property of the rest of their citizens to the hazards of war; besides, this course puts an end to all other modes of redress, and places the prospect of remuneration on the uncertain issue of the contest.

*French spolations prior to 1800.* The subject of French spolations, prior to the 30th of September, 1800, was again brought before congress on the application of a great number of sufferers, for remuneration from the public treasury. Mr. Holmes of Maine, from a select committee of

the senate, to whom the memorials were referred, presented an able report, showing in point of fact, that these claims were expressly relinquished by the convention of that date, in consideration that the French government would relinquish all claim to the guaranty contained in the treaty of alliance, by which this nation bound themselves to protect the French West Indies. From the nature of that guaranty, and the difficulties the United States would be subject to by fulfilling it in good faith, the committee inferred, that it was an advantageous bargain for the United States, even at the expense of paying their citizens the full amount of their claims. The committee could see no reason why these claims should be bartered away by the government, without making compensation. They considered them not as claims on the humanity or generosity of the nation, but on its justice, and of a nature which, as between individuals, courts of law would be bound to enforce. The amount of the claims from 1793, to 30th of September, 1800, they estimate at eight millions, and recommend that the president be requested to cause an abstract of these claims, with the documents and evidence by which they are supported, to be laid before the senate at the commencement of the next session, with a view to an ultimate liquidation and payment.

*Woolens bill.* The duty on woolens, laid by the tariff of 1824, having failed to afford the expected protection, in consequence of being met, on the part of Great Britain, by an almost total repeal of their duty on the raw material, a bill was introduced by the committee on manufactures, for an increase of the duty on wool, and woolens, with a view to afford the encouragement originally intended. The bill was reported to the house, and ably supported by Mr. Mallary of Vermont, chairman of that committee. It underwent a protracted discussion, in which the constitutionality and policy of the American system, as it was called, of laying protecting duties, was alternately attacked and defended with great ability. The bill passed the house on the 9th of February; ayes 106, noes 95. The session was so near a close, that there was not time for its deliberate discussion in the senate, and on the 28th of February it was laid on the table, by the casting vote of the vice president, a measure equivalent to an indefinite postponement.

*Virginia resolutions.* The opponents of the woolens bill, derived great countenance from a series of resolutions introduced by Mr. Giles, and passed by large majorities of

both houses of the Virginia legislature, in February, 1827. These resolutions relate to two subjects; the power of congress to make internal improvements, and to impose duties for the purpose of protecting domestic industry. In both cases they utterly deny the existence of the power in question. The tariff law of 1824, is denounced as operating to transfer property from one portion of the people of the United States to another, and to take private property from the owner, for the benefit of another person not rendering public service. They then affix to it the opprobrious epithets of "unconstitutional, unwise, unjust, unequal, and oppressive." The senate prefaced these resolutions with a preamble, declaring their warm attachment to the union of the states, and their determination to defend the constitution, against every aggression foreign or domestic; this preamble, not comporting entirely with the spirit of the resolutions, was stricken out by the house, and finally abandoned in the senate.

*General Taylor's substitute.* Resolutions of this character, though supported by powerful majorities, did not pass without animadversion. General Taylor proposed a substitute, declaring it inexpedient for the legislature to interfere in the matter. The arguments urged in support of this proposition were, that the administrators of the general government were the agents of the people, vested with certain powers by the constitution, and amenable to their constituents only, for the manner in which they executed them:

That the legislative bodies of the several states are also agents of the people, for particular purposes, and no where clothed with authority to sit in judgment upon the acts of the general government, and pronounce them unconstitutional:

That the exercise of this assumed power would be of the most dangerous tendency, and in its practical results, end in revolution and civil war, or in a disgraceful abandonment of principle.

Admitting this power to exist, it was said, there would be but few acts of the general government operating on its citizens, but what would be obnoxious to one or more of the legislative bodies of the twenty-four states of which the union is composed; that state would of course denounce them. Resistance to the execution of a law necessarily follows the right of declaring it unconstitutional. The consequences of such a principle could be readily foreseen.

The only safe and proper course, it was urged with great force, was peaceably to submit to the laws as they came from the hands of the constituted authorities, until repealed; or declared to be unconstitutional by a competent tribunal.

The principle now claimed, it was said, was a revival and an improvement of the long exploded doctrines which appeared in the east in 1814.

*Harrisburgh convention.* The failure of the woolens bill induced the Pennsylvania society for the promotion of manufactures and the mechanic arts, an institution of considerable standing, and great respectability in Philadelphia, to call on the farmers, manufacturers, and friends of the American system, to hold meetings in their several states, and appoint delegates to meet in a general convention, which they appointed to be held at Harrisburgh, on the 30th of July, 1827, to deliberate on the measures proper to be taken to encourage domestic industry. In consequence of this invitation, a respectable delegation, consisting of one hundred members, from thirteen states, including all north and east of Virginia, inclusive, excepting the state of Maine, together with the states of Kentucky and Ohio, met at the time and place proposed. Delegates having been appointed by the state of Maine, but being unable to attend, addressed a respectful letter to the convention, approving of the objects of the meeting. This convention may be considered as a fair representation of the feelings and views of the agricultural and manufacturing interests of the nation, and as concentrating a great fund of information relative to their present condition, future prospects, and means of advancement.

*Their proceedings and address.* After a session of five days, the convention agreed on a memorial to congress, praying for further protection of the national industry, by an increase of duties on woolen manufactures, and the raw material; also on the manufactures of hemp, flax, and cotton, and on iron, steel, and distilled spirits. A committee, of which Mr. Niles of Baltimore was chairman, was appointed to prepare and publish an address to the people of the United States, on the subjects which the convention had had under consideration, authorizing it to be done after their adjournment. The address was drawn up by Mr. Niles, with the assistance of Mr. Carey of Philadelphia, two distinguished advocates of the American system, with great

ability. The most important propositions which it advocated and elucidated, were :

That it was the right and duty of the government to encourage the industry of its citizens, by protecting and even prohibitory duties on such articles as the country was able to produce in sufficient quantities within itself. The universal practice of European nations was referred to in support of this principle. Much of the wealth and power of the British empire is attributed to a rigid adherence to this doctrine :

That where such capacity exists in relation to a particular article, this encouragement will bring into operation a domestic competition, which in a short time will produce the article at a cheaper rate than before the imposition of the protecting duty. This, the address supposes, is verified by the effects of the tariff, so far as the same has been extended, particularly in the articles of coarse cottons, nails, and glass :

That this policy would not have an unfavorable operation upon the revenue and commerce of the country, inasmuch as the consumption of foreign productions is ever regulated by the ability of the people to purchase, which would be increased by the new stimulus to domestic industry. This, the address also supposes, is amply verified by experience, so far as the protecting system has already progressed. The address was accompanied with a variety of statistical evidence and documents, illustrating and confirming its positions.\*

By a labored course of argument, it was attempted to be shown that the required protection would not operate injuriously upon the people of the southern section of the union, the principal consumers of the articles required to be protected ; but it produced no such conviction on them. The meeting and proceedings of the Harrisburgh convention was viewed with great jealousy by the south.

*Columbia convention.* A counter convention was held about the same period, at Columbia, in South Carolina, at which the governor of the state presided, where the power of congress to impose duties for the purpose of protecting domestic industry was denied, and the policy reprobated in the most unqualified terms.

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\* Address of Harrisburgh convention, September, 1827.

They claimed that the protecting system was a relic of a monarchical and monopolizing policy, inconsistent with the principles of a free government. That free trade, in its most extended sense, is the true American policy:

That the consumer should always be at liberty to supply himself where he can do it cheapest; and that the objects to which industry and capital are to be applied, should be left to the free choice and sagacity of individuals, which will always conduct it into the most beneficial channels:

That if a business is profitable, it needs no protection; if unprofitable, it deserves none:

That taxing the consumer for the benefit of the producer, is unequal, unjust, and oppressive.

The Columbia convention estimate the protecting duties already laid, and those in contemplation, equal to a tax of twenty-five per cent. upon the annual income of all the inhabitants of the state, for the exclusive benefit of a few manufacturing capitalists of the north. They say "that it is a grievance not to be patiently submitted to, and but too well calculated to bring on the dangerous inquiry, in what manner are the southern states benefited by the union?"

*Dr. Cooper.* Dr. Cooper, a literary character of eminence, at the head of Columbia college, was the principal orator on the occasion. His speech, which was received with great applause, and voted by acclamation to be printed, concludes with these remarks: "I have said, we shall ere long be compelled to calculate the value of our union, and to inquire of what use to us is this most unequal alliance, by which the south has always been the loser, and the north always the gainer? Is it worth our while to continue this union of states, where the north demand to be our masters, and we are required to be their tributaries?—who, with the most insulting mockery, call this yoke they put upon our necks, the American system! The question, however, is fast approaching to the alternative of submission or separation. Most anxiously would every man who hears me, wish, on fair and equal terms, to avoid it. But if the monopolists are bent upon forcing the decision upon us, with themselves be the responsibility. Let us, however, apply to the feelings of truth, and justice, and patriotism, among our fellow-citizens, while there are hopes of success. I would fain believe it is not yet in vain. But at all events, we must hold fast to principle; if we compromise our rights, and act from motives of expediency, we trust to a broken



anchor, and all that is worth preserving will be irretrievably lost."

In their memorial to the state legislature, the convention declare, "the national compact to be broken," and intreat them "to deliberate on the momentous question, and devise some means of freeing them from a yoke too heavy to be borne." In their memorial to congress, they complain that the tax laws to be enacted, are in future to be, as for many years past they have been, not national, but sectional, so that the benefit of the union, to this state, is becoming daily more dubious and disputable."

The address of the Harrisburgh convention, and the proceedings of the Columbia meeting, are the text books containing the principles on which the tariff and anti-tariff, or the advocates and the opposers of the American protecting system, bottomed their respective theories. The points at issue were distinctly marked.

The tariff principle, denominated by its friends the American system, because, in their opinion, it was designed and calculated to promote the wealth, industry, and independence of the nation, was,

That it was the duty of the government, and within its constitutional powers, to lay protecting and prohibitory duties on the importation of all such articles as it was within the competency of the country to produce.

Its policy was, to begin with such protecting duties on a particular article, as should encourage the domestic production, gradually increasing them as the supply increased, until the foreign article was entirely excluded from the home consumption.

The anti-tariff principle, also denominated the American system, by its friends, because it differed entirely from the European, and from any that was ever adopted by any other nation, was,

That congress had no power to impose duties, or levy taxes, for any other purpose than that of raising such an amount of revenue as the exigencies of the government required. Its advocates considered all mankind, in relation to trade, as composing but one community, and claimed that each member should be left free to seek a supply of his wants, where, in his opinion, it could best be found. Always saving the right of each government to levy such taxes as its exigencies required, on such articles as would diffuse the public burdens the most equally over the whole, and be the least injurious to the community.

*Division on the protecting system.* The questions arising out of these principles, were, at this time, peculiarly interesting.

The national debt was so far extinguished, as that, upon any question of general policy, it was not to be taken into the account. Such a system of defense had been matured, as rendered any apprehensions of a foreign war, perfectly chimerical. A moderate impost upon a few luxuries, with the other resources of the country, would afford a revenue adequate to all the ordinary purposes of government. One great obstacle to a protecting tariff, was found to be British influence. The commercial connection between the two countries, and its influence on the politics of this, can hardly be viewed in too serious a light. The importations from that country, consisting of articles of their manufacture, which would be eventually excluded by the tariff, may be estimated at thirty millions a year. That nation, as was to be expected, took a deep interest in the tariff discussions of this, and excited a powerful interest in the commercial cities of the seaboard, against the system. As a political gull-trap, her statesmen became suddenly the advocates of free trade. Their parliamentary harangues teemed with high professions. Her system of prohibitions, and prohibitory and protecting duties, which had existed for centuries, and raised her manufactures to such a pitch of perfection as to defy all competition, appeared to be suddenly abandoned, under a pretense, indeed, of a liberal free trade system, but in truth, because it was no longer necessary; British politicians well knowing, that with or without duties, no foreigners would think of manufacturing cotton or woollen goods, for the London or Liverpool markets.

The division on the tariff question was entirely sectional. The south, Virginia inclusive, were unanimously against it. The north, east, and west, with the exception of a few cities on the seaboard, in its favor.

The same sectional division arising from the same cause, took place on the question of internal improvements. It became necessary for the friends of the tariff to find some national object to which the moneys arising from the continuance and increase of duties might be applied. Internal improvements furnished an object limited only by the discretion and means of the government. This the advocates of the anti-tariff, or free trade system, well knew, and connecting the two subjects together, gave them their united opposition; not all of them, however, in the same strain,

or going the same length with Dr. Cooper's address and the Columbia resolutions. These, if they mean any thing, go directly to the point of a separation from the union, and contain a threat, that if the general government do not retrace their steps, and repeal the laws by them deemed unconstitutional and oppressive, that such will be the result. They are not to be taken, however, it is hoped, as the deliberate opinions of the governor of South Carolina, and the other respectable gentlemen assembled on that occasion. It cannot be supposed that they have counted the cost and weighed the consequences of such a measure. It is to be remembered that this meeting was held under a great excitement. On such occasions, orators and popular leaders ambitious of applause, and knowing perfectly well the means of obtaining it, will touch the chord which vibrates in unison with the popular feeling. The strongest expressions, and boldest and most unadvised measures are best adapted to this purpose.

*Vice president's case.* In the course of the session, a circumstance took place in relation to the vice president, which occasioned considerable sensation, and to which much more consequence was attached, than the subject deserved. Proposals had been issued under the direction of the secretary at war, for furnishing a quantity of stone for the building of fortress Monroe, at Old Point Comfort. Elijah Mix was the lowest bidder, whose proposals were accepted by the chief of the engineer department, subject to the approbation of the secretary at war. In behalf of the person who would be entitled to the contract after Mix, and with a view to show that he was a worthless character, and prevent the secretary from approving the contract, a letter was shown him, written by Mix some time before, accusing Mr. Calhoun of participating in the profits of a contract made with the war department while he was at the head of it, for the supply of stone for building fortress Calhoun, called the Rip Rap contract. On seeing this letter, Mr. Barbour at once deemed it to be a base calumny upon the character of the vice president, and returned it to the person who had shown it to him; and being satisfied that it was written by Mix, he considered him as utterly unworthy of the confidence of the department, and disapproved of the contract. The letter soon afterwards, without the knowledge of the war department, found its way into one of the Washington papers. On seeing the publication, the vice president addressed a letter to the speaker of the house of representatives, requesting an investigation of his conduct, and retired from

the chair of the senate while the subject was under the consideration of the house.

*Proceedings of the house.* An interesting question arose as to what disposition it was proper to make of this matter. The constitution gave the house of representatives no powers or jurisdiction in relation to the officers of government, excepting that of impeachment. As none believed the charge, or thought of moving an impeachment grounded upon it, no sufficient reason could be assigned for any proceedings upon the subject; and it was entirely aside from the constitutional and appropriate duties of the house gratuitously to undertake the task of purging the characters of public officers, from the slanders found in the newspapers, which no one believed afforded any ground to call into exercise the constitutional powers of the house, as the grand inquest of the nation. Respect for the feelings of the vice president prevailed, and led to a course of proceeding not justifiable on any other ground. A committee of seven were appointed to take the subject into consideration, with power to send for persons and papers. Their first step was to address a letter by their chairman to the vice president, informing him of their appointment, and that they were ready to receive any communication he might think proper to make. He replied that he had nothing further to communicate than what was contained in his letter addressed to the speaker; and that his friend Mr. M'Duffie would attend their sittings, to give any explanations that might be required. The committee now found themselves singularly situated, commissioned by the house to investigate charges which appeared no where but in a newspaper, under the signature of a character professedly infamous; charges which nobody believed, and nobody appeared to prosecute or defend, or furnish any means of investigation. No person appearing before them in the character of an accuser, they set themselves to work to investigate the transactions to which the publication alluded; and having had the subject under consideration from the 29th of December to the 13th of February, made a report, fully exonerating the vice president from the charge, and the war department from any knowledge or concern in the publication which had given rise to the investigation. The committee consisted both of the political opposers and friends of Mr. Calhoun. The latter supposed that the report was not as full in commendation of the vice president as it ought to be, and presented one differing from it in that respect. Accompanying these

reports, was also a protest by Mr. Calhoun's friend, who attended the examination, complaining that the committee, in their proceedings, had not confined themselves to the strict rules which govern courts of law in the admission of testimony.

*Duel.* In this paper too, the proceedings of a committee of the house of representatives, in 1822, who had the Rip Rap contract under consideration, about which Mix's letter was conversant, was severely censured. Two of that committee being at Washington, published a reply in which they say, that "*the misrepresentations, not to say intentional ones, contained in the protest, demand and shall receive correction.*" This expression gave offense. An explanation was demanded, and refused, and followed by a challenge. The defendant, according to the rules of this kind of warfare, having the right to choose the weapon, distance, and other circumstances, chose the rifle, at ninety feet. This arrangement in the relative condition of the parties, the one being feeble in body, and crippled in a former duel, the other an expert rifleman, put the life of the challenger entirely into the hands of his antagonist; a condition by no means to be desired. The terms were rejected. The broad-sword was then offered, and refused for the same reason. The affair terminated without bloodshed, each accusing the other of a violation of the laws regulating this species of homicide: the challenger complaining of the selection of unusual weapons, and the challenged charging his antagonist with having the courage to call him out, but not of meeting him in the field. This short session was disgraced by another challenge which terminated in a like harmless manner.

An apology may be deemed necessary for noticing these transactions. Since the commencement of the government, something like a score of duels have been projected, and terminated in various ways, some of them fatally, by members of the national legislature, and other officers in high stations. The scene is a sickening one; its record forms a dark page in the history of the country, which would gladly be left a blank, were it not that the example set by men in such stations, by committing the highest crime known to the laws, that of deliberate murder, is of the most pernicious tendency. Scenes of this nature are recorded only to be reprobated and avoided.

*Northeastern boundary.* The boundary between the United States and the Canadas, as defined by the treaty of

1783, is the highlands which divide the waters which fall into the St. Lawrence, from those which fall into the Atlantic ocean. It was then supposed that this natural boundary might be easily designated; this never having been done, the fifth article of the treaty of Ghent provided for the appointment of two commissioners, one on the part of each government, to ascertain and survey the boundary line from the source of the river St. Croix to the northwest angle of Nova Scotia, now New Brunswick, and from thence to the St. Lawrence or Iroquois in latitude forty-five north. As the geography of the country became known, it was found that the highlands from whence proceed the sources of the Madawasca, a branch of the St. Johns, bordered upon the St. Lawrence. From these highlands, to Mars hill, which divides the waters of the St. Johns from those of the Penobscot, is a distance of about one hundred and forty miles, embracing a tract of fertile land, watered by the Madawasca and Aristook rivers. The American commissioner fixed the northeastern boundary at the northernmost highlands, and the British, at Mars hill, and made their surveys and their reports to their respective governments accordingly.

Soon afterwards, the states of Massachusetts and Maine proceeded to survey, sell, and settle several tracts of land on the Madawasca and Aristook rivers, and to exercise jurisdiction over them as a part of the county of Penobscot. On the same tracts, likewise, were some old French Canadian settlements, commenced soon after the peace of 1783; and the province of New Brunswick also extended jurisdiction over them as a part of their county of York. The mail rout from New Brunswick to Quebec lay across this territory, and over the lands of a Mr. Baker, a purchaser under the state of Maine. He, with several of his neighbors, who were also purchasers under the same title, erected a pole in a conspicuous part of his purchase, to which a cloth was attached, marked with the American stars and stripes; and stopped the British mail on its way to Canada. Baker and his associates were arrested by the authorities of New Brunswick, and carried to Fredericton, on a prosecution for a riot. Baker was tried, convicted, and punished by fine and imprisonment; the others were discharged. These circumstances led to a correspondence between the British and American governments, the result of which was, that neither party should exercise jurisdiction over the disputed territory pending the contro-

versy, and that the question of boundary should be submitted to the king of the Netherlands for his ultimate decision. Mr. Preble, a distinguished citizen of Maine, was appointed minister to that court, specially charged with the business. In the mean time, a battalion of United States troops were stationed on its southern border. Soon after their arrival, their position was reconnoitered by Sir Howard Douglass, lieutenant governor of New Brunswick, from a neighboring eminence. No further disturbances have taken place, and the question of right is in a progress of settlement.

## CHAPTER XXII.

First session of the 20th congress—Choice of a speaker—Revision of the tariff—Report of the secretary of the treasury—Committee on manufactures—Their proceedings—Motion to authorize them to summon witnesses—Substance of testimony given before them—Their reports—Proceedings in the house of representatives—Tariff bill passed both houses—Chilton's resolutions on retrenchment—Referred to a select committee—Their proceedings and report—Reasons of the minority against it—Correspondence on the navigation of the St. Lawrence—Death of General Brown, and appointment of a successor—Excitement, and proceedings in the south respecting the tariff—British views, and debates in parliament on the American tariff—Proceedings of the British parliament, on the subject of fortifying the Canadas.

*Meeting of the twentieth congress.* On the 4th of December, 1827, the day designated by the constitution for the first meeting of the twentieth congress, every senator except two, and two hundred and seven out of two hundred and thirteen members of the house of representatives, appeared in their places. In the house, on the first ballot, Mr. Stephenson of Virginia, the Jackson candidate, had 104 votes, and was chosen speaker. His opponent, Mr. Taylor of New York, had 94. Mr. Stephenson's votes, with the addition of four for Mr. Barbour, being 108 against 97, determined the strength of parties, there being that majority against the administration. The revision of the tariff, with a view to afford adequate protection to American manufactures, was by far the most interesting subject, which presented itself to the deliberations of the legislature at this session. The period had arrived when an impost comparatively light with the other national resources, would be sufficient for the ordinary purposes of government, and the extinguishment of the remnant of the public debt. Two important questions now presented themselves; has the constitution given to congress the power to lay an impost for the protection of American manufactures, when not needed for the proper expenditures of the government? If they have the power, is it expedient now to exercise it? The subject of a tariff or rate of duties upon importations, is found to be the most difficult to adjust, of any within the compass of legislation. It addresses itself to the interests



and feelings of the whole population. Every person who consumes a dutied article, and there are none who do not, pays the duty. Peculiar difficulties attend the subject in the United States. No nation in Europe, Russia perhaps excepted, possesses an equal extent of territory. None where the climate, soil, and productions are so varied. None where the interests, employments, and manners of the population are more diverse. The difficulties attending a just and proper arrangement of a tariff, multiply with the increase of these diversities. No article, except perhaps a few of universal use, and which cannot be produced at home, can be made the subject of a duty, but what the imposition will bear harder upon some sections of the country than others. Every citizen, through his representative in congress, is to be heard, and his claims adjusted on this subject. At home, he has a state legislature, ever ready to listen to his complaints, and to become his champion, when there is a real or supposed grievance.

*Report of the secretary of the treasury.* The secretary of the treasury, in his annual report to the house at the commencement of the session, after the usual statements in relation to the finances, entered into a labored discussion in which he maintained that a system of protecting duties was essential to the prosperity and independence of the nation; that it will not have an injurious effect upon commerce or revenue; that it will ultimately benefit the consumer, by creating a domestic competition, shortly producing a better and cheaper article than the foreign; and that it will greatly increase the wealth and resources of the country.

*Committee on manufactures.* The subject would in the first instance, of course come before the committee on manufactures. Mr. Mallery of Vermont, an able and zealous advocate for the protecting system, was appointed chairman. In the selection of the other members of that committee, the usual and correct practice of appointing a majority, known to be favorable to the object, was departed from, four out of the seven, of whom the committee consisted, were unfriendly to the principles of protection, and the chairman found himself in the minority on most of the important questions submitted to their consideration. A majority of the committee against the opinion of the chairman, directed application to be made to the house, to summon witnesses to give information on the subjects before them. The motion was strenuously opposed, as well on account of the delay

it would occasion, as because sufficient information was already in its possession, and might readily be obtained by inquiry of members.

*Testimony before the committee.* The motion prevailed, and witnesses were summoned from various parts of the nation, to inform its representatives of the resources, productions, and manufactures of the country. The power was judiciously exercised. The witnesses summoned were men of intelligence, and generally engaged in the production of the articles which required protection. A great mass of valuable information was collected, clearly evincing the capacity of the country to produce an abundance of the raw material for all manufactures of wool, cotton, hemp, flax, and iron, and that there was sufficient capital, skill, and enterprise, to convert them to the necessary uses. That in the present state of commerce, many important branches must fail, if not encouraged in their incipient stages, by further duties on the foreign articles with which they competed. That in regard to woollens, the annual imports of which were estimated at eight millions, since the reduction of British duties on foreign wool, the manufacturing of that article had been a losing concern, and without further protection the millions of capital embarked in the business must be lost, and the country dependent on a foreign supply. That in relation to those articles which had already received adequate protection, a domestic competition had already arisen, which, without exception, produced the article of a better quality and at a cheaper rate to the consumer, than before the imposition of the duty. And that the uniform and settled policy of the nations with whom the United States had intercourse, of giving their own subjects the benefit of the home supply, had excluded most American productions, except the raw material necessary for their manufactures, from foreign markets.

This testimony embodied and arranged under its various heads, by the committee, accompanied their report to the house, and had a great effect in producing the passage of the tariff. The bill, presented the 31st of January, was such as the majority directed, but did not meet the views of the minority. In regard to woollens, the duty on the manufacture compared with that on the raw material, placed the manufacturer in a worse situation than under the tariff of 1824; and must have inevitably destroyed the establishments, and with them the production of the raw material.

While the bill was under discussion, meetings were held in various parts of the United States, for the purpose of making known to congress the views of the various classes of citizens upon the subject. Importing merchants were generally opposed to the principle, every description of citizens in the south universally so. The agricultural, manufacturing, and mechanical interests of the east, north, and west, supported the principle of protection, but were opposed to many of the leading features of the bill.

*Report of the committee of ways and means.* The committee of ways and means, of which Mr. M'Duffie, of South Carolina, was chairman, in their report on the finances, after a short statement in relation to their appropriate subject, entered into an elaborate discussion of the principles of the protecting system, in opposition to the arguments of the secretary of the treasury. In their view, it was destructive to the revenue, commerce, and all the best interests of the nation, and would fall with a most unequal and oppressive weight upon the south.

*Passage of the tariff bill.* The subject occupied the house almost exclusively, from the 1st of February to the 22d of April, when a bill passed, much altered from that reported by the committee, but by no means conformable to the wishes of the advocates of the protecting system, ayes 105, noes 94. In the senate, it passed on the 13th of May, ayes 26, noes 21, with various amendments, not essentially altering its general character, which were concurred in by the house. The state of Maine, and those of the south, and southwest, Virginia inclusive, being nine in the whole, were almost unanimously opposed to it. It met the entire approbation of none, and was passed by a small majority, on the principle, that it was better than an entire abandonment of the subject. Taking those from the negative who were in favor of the protecting system, but voted against the bill on account of its exceptionable details, it may be considered that two thirds of both houses were in favor of the principle. A law passed with so great opposition, and with so few real friends, it was thought would be of short duration; and the manufacturer, for whose benefit it professed to be enacted, slowly and cautiously adapted his business with a view to avail himself of its provisions.

*Retrenchment resolutions.* On the 21st of January, Mr. Chilton, of Kentucky, introduced into the house of representatives sundry resolutions, which, after stating the importance of discharging the public debt, and conducting the

affairs of the nation upon principles of economy, directed the committee of ways and means to inquire, and report, "what offices, in their opinion, might be most advantageously discontinued; what salaries will bear reduction, and such other means of retrenchment as to them may seem necessary." This was considered on all sides as an attack upon the administration, preparatory to the ensuing presidential election. On the one hand, its conduct was represented as extravagant, and in a high degree lavish and wasteful of the public money. On the other, it was ably defended. The resolutions occasioned an animated party discussion of two weeks, and after undergoing a variety of modifications, designating more particularly the objects of inquiry, embracing the question of reducing the pay of the members of congress and their officers, and providing for an examination of the manner in which the contingent funds and secret service moneys had been expended since the commencement of the government, they were unanimously adopted, and referred to a select committee. In designating this committee, consisting of seven members, the speaker appointed five, including Mr. Hamilton, of South Carolina, the chairman, who were known to be opposers of the administration, and two of its supporters. This body, denominated the committee of retrenchments, first addressed a circular to the heads of each department, and the postmaster general, inquiring of them what useless officers they had in their respective bureaus? and what salaries might be diminished without detriment to the public service? These inquiries, implying mal-administration in the respective departments were answered, as might be expected, with a decided negative, accompanied, in most instances, with declarations that further expenditures were necessary. The postmaster general was more particular in his details in relation to the business of his department, stating that he had under his command a corps of twenty-five thousand men, a greater number than all the officers and men in the army and navy, and the whole civil department together. That it was necessary to direct the movements, and critically to watch the conduct of each member of this body, and see that every man was at his post doing his duty; and that this could not be done without more subalterns, and an increased expense in the general office.

*Report of retrenchment committee.* The committee in their report say, that no retrenchment can be made, in the post office department; but in the other offices, they en-

tirely dissent from the opinion of the heads, and think that at least the services of one third of the clerks might be dispensed with. This, however, they say, cannot be done without the co-operation of the chiefs. The committee, not being acquainted with the details of business, cannot designate what clerks may be dismissed, and do not propose any specific reductions. In their opinion, reformation must begin at the head; the business of retrenchment can then be advantageously accomplished.

The committee next turned their attention to the contingent fund, and secret service moneys. In making appropriations for the public service, it was found that congress could not foresee and provide for every emergency; hence it early became a practice in the legislature to appropriate certain sums of money to provide for contingencies in the respective departments, to be made use of as occasion might require, and afterwards accounted for. It was also found necessary in conducting the complicated business of the government, especially in its foreign relations, to make use of moneys in a manner which could not with propriety be made public. It was, therefore, further provided, that where moneys had been taken from this contingent fund, and used for purposes which ought not to be disclosed, a certificate from the president, that the money had been appropriated to public service, should be sufficient accounting without requiring the customary vouchers. Moneys from this fund, thus accounted for, were denominated secret service money. Such a power, it must be evident, in the hands of a corrupt administration, might be wielded to the most baneful purposes. The committee entered on this branch of their inquiries with great zeal and expectation. Two of the most prominent cases that fell within their observation were those of Mr. Pleasants and Mr. Cook.

Mr. Pleasants had been employed in the spring of 1825, as a special messenger to carry out the credentials, commissions, and general instructions to Mr. Raguet, appointed charge des affaires at the Brazils, and Mr. Forbes at Buenos Ayres. With difficulty he found a merchant vessel at New York bound to the latter place, with very insufficient accommodations. On his passage he fell dangerously sick, so that in the opinion of his friends, pursuing the voyage in a tropical climate, with such conveniences only as the vessel afforded, must have proved fatal to him. He therefore abandoned it, intrusted his dispatches to the captain, took passage in a vessel bound to Liverpool, from whence he returned

in the fall to the United States. The dispatches reached their destinations seasonably and in safety. In settling his account, the department of state allowed his passage moneys and his wages up to such a time as was deemed sufficient for him to have gone to the places to which he had been ordered, done his business, and returned. This, in the opinion of the committee, was a misapplication of the contingent fund, and a lavish expenditure of the public money. They supposed that the appointment was unnecessary, notwithstanding the declarations of the secretary, that such had been the usual, and in the opinion of the department, the only safe course. They thought the dispatches ought to have been sent by the captain of some merchant vessel; or, if they were of such a nature as to require a special messenger, he ought, at all hazards, to have remained at his post: and in no event should Mr. Pleasants have been paid for services not performed.

Mr. Cook, of Illinois, had been appointed in the spring of 1827, on a secret mission to the island of Cuba. After a short residence there, he returned on account of ill health, and soon after died. In consequence of this, it was not known that any important benefits resulted from the mission. He was paid an outfit, and a salary for a short period, at the same rate as a *charge des affaires*, out of the contingent fund, and the expenditure accounted for only on the general certificate of the president. The committee could see no reason for this appointment or expenditure. On application to the secretary of state, he proposed to disclose to them confidentially, the objects of the mission; they declined receiving it upon those terms, leaving the subject as they found it; with a strong suspicion, that as Mr. Cook, in February, 1825, being a member of the house of representatives, gave the vote of Illinois to Mr. Adams, this appointment was a reward for that service; although the intervening period of more than two years, somewhat weakened the suspicion. The committee specify several other instances which they deem to be abuses of this fund, but none of so prominent a character. Though their commission authorized them to extend their inquiries back to the commencement of the government, they chose to confine them to the period of the present administration.

The committee were greatly and justly alarmed at the executive patronage of the press. They find that there are eighty-two newspapers in which the laws of the United States are printed for general information. That the amount

paid for printing, advertising, and subscriptions for newspapers by the executive departments, and general post office from the commencement of Mr. Adams' administration to the period of their inquiries amounted to 78,030 dollars. This they consider as sufficient to bribe the publishers to support the views of a corrupt executive; and recommend measures to restrict this patronage. It not having occurred to the committee that a successful candidate for the presidency, might, by rewarding influential editors with lucrative offices, obtain an entire control of the press, they made no provision against such contingency.

*Counterpart by the minority.* The administration had two powerful advocates on this committee, Messrs. Sargeant and Everett. They accompanied the report with a counterpart expressing their views of the various subjects under consideration. They state that the expenses of the executive department to which their inquiries had been chiefly directed, amounted to about one fiftieth part of the whole expenditure of the government; that only one sixth of this was in any way subject to executive discretion, the residue being provided for, and limited by law, and but one tenth of this one-sixth was of a nature any way questionable. The amount, therefore, which could in any manner be subject to the pruning of a retrenchment committee, was only one three thousandth part of the public expenditure. Small however as it may be, compared even with the expenses which the debate on the subject has occasioned, they think it ought to be critically examined, that every avenue to corruption might be stopped. They then proceed to the examination of the various subjects embraced in the report, and arrive at the conclusion that the financial affairs of the nation have been managed with economy.

*Navigation of the St. Lawrence.* On the 7th of January, the president transmitted to the house of representatives, the correspondence between the British and American governments on the subject of the navigation of the St. Lawrence. The claim to a free navigation of that river from its source to the ocean for the citizens of the United States, was first made by Mr. Rush, in 1824, and met with a decided refusal; the British ministry considering their right to exclude all foreigners from navigating that river through their territory, as a matter which admitted not even of debate. The claim was renewed and enforced more at large by Mr. Gallatin, in obedience to instructions from the department of state, in 1826, and with the same result.

The question of right to the free navigation of a river, where one power owns both banks at the mouth, and another, those on the upper portions of the stream, has never been definitively settled. Writers on national law, favor the doctrine of the exclusive right of the lower proprietor. This has never been submitted to, where the upper was the most powerful and able to enforce his claim. All the material points arising in Europe on this head, were settled by treaty stipulations at the general congress at Vienna in 1815. In all instances the right was secured to the upper proprietors on such terms as that congress thought expedient. Previous to this period, the subject had been a fruitful source of controversy and war.

Mr. Gallatin enforced the American claim with great ingenuity as well from what he contended was the principle of natural right, as from the necessity of the case. Six states at least, bordering on the upper waters of that river, were interested in its navigation. It could not be supposed that they would give up this highway which the author of nature had provided for them to the ocean, the common property of all. It was a right which might be enjoyed without detriment, and generally to the mutual advantage of the upper and lower proprietor. A difficulty, however, presented itself in this case, common to most others of this nature, admitting the right, it could not be beneficially enjoyed by the upper proprietor without a place of deposit in the lower. The productions of the upper country can never reach the ocean in the same vehicle in which they are first embarked. A transshipment, and of course a depot in the lower country is necessary. This cannot be claimed as a matter of strict right, but must be the subject of negotiation. The claim of Mr. Gallatin was met by a direct and unqualified refusal, accompanied with a labored argument in favor of the British principle. From the result of this correspondence, it is evident that the free navigation of the St. Lawrence is not to be obtained without a purchase, a conquest, or the independence of the Canadas. Fortunately, the Erie canal and its branches, the Champlain canal, and the contemplated one across the northern border of New York, from the St. Lawrence to lake Champlain, renders the navigation of that river through the British territory of little consequence; there being very few, if any points on its upper waters, from whence produce will not reach a foreign market by the way of New York, at a cheaper rate than by Montreal and Quebec.



**Death of General Brown.** Major General Brown, commander in chief of the army, died at Washington, on the 24th of February, 1828. In consequence of the vacancy occasioned by his death, Mr. Chandler, of Maine, introduced a motion into the senate, to abolish the office of major general, leaving the command in chief of the army to the senior brigadier. The motion not prevailing, the vacancy was filled by the appointment of General Macomb.

The session closed on the 27th of May.

**Excitement in the south.** No events since the commencement of the revolution, so much resembled the tumultuous and disorderly proceedings of that period, as the excitement in the south, occasioned by the tariff. South Carolina, feeling herself the most deeply injured, took the lead. It became a matter of serious debate, with her delegation in congress, after the passage of the law, whether they should not abandon their seats.\* It was the serious, deliberate, and universal opinion of the southern section, that the law was unconstitutional, unjust, and peculiarly oppressive to them. Inflammatory newspapers, taking the lead, and profiting by the excitement, called upon the people of the south to form conventions, and separate from the union. Ambitious politicians followed in the train, adding fuel to the flame, hoping to profit by its ravages, regardless of consequences. Meetings were held in various places, all agreeing in the general measure of denouncing the tariff, but varying in their modes of opposition, according to the feelings, character, and intelligence of the members. At a meeting of the inhabitants of Colleton district, an inflammatory address, calling upon the citizens to an open resistance to the law, was received with applause. It had become a custom, to a considerable extent, for such representatives as had, in the opinion of their constituents, distinguished themselves in congress, on interesting subjects, to receive the honors of a public dinner; the characteristics of which were, a complimentary toast to the guest, and a speech from him, in unison with the feelings of the assembly. Such an entertainment was given to Mr. McDuffie, at Columbia, at which Governor Taylor presided. A little previous to it, the tariff law, and the effigies of its principal supporters, were publicly burned. On being toasted as the chairman of the committee of ways and means, in allusion

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\* Haynes and Martin's letters, 1828.

to the celebrated anti-tariff report of that committee, he addressed the meeting in a speech of two hours, in which he represented the majority who had passed the law, as a set of desperate, unprincipled tyrants, who had bartered away the rights and interests of the south, for electioneering purposes; that such a state of things was insufferable, and none but cowards would bear it longer. He concluded with the toast, "millions for defense, not a cent for tribute." The manner in which this had been used, at the commencement of the late war, and of its introduction now, was such that its object could not be mistaken. The speech, with the concluding sentiment, was received with unbounded applause. The governor's message to the legislature, in the following November, partook very much of the character of these meetings. South Carolina, however, was not without her distinguished citizens who reprobated proceedings of this nature. David R. Williams, formerly governor of the state, now in retirement, on being applied to on the subject, though falling in with the current of opinion on the constitutionality of the law, censured, in severe terms, all tumultuous and hostile measures. "Dreadful, indeed," he says, "must be the suffering which would warrant an appeal to the elements of passion and discord, for relief."

The proceedings in the other states of the south, though agreeing, in principle, on the constitutionality and effects of the tariff, were of a much more moderate character. The principal meeting was held at Athens, in Georgia, on the 6th of August, at which Mr. Crawford, formerly secretary of the treasury, presided. Messrs. Berrien and Cobb, of the United States senate, several members of the house of representatives, and other distinguished characters, were present. It seemed to be the object of the talented gentlemen who guided the deliberations of this meeting, to allay, rather than increase the excitement, and to give it a right direction. After declaring their opinion, that the law was unconstitutional, and injurious to the south, they say, "that as the union is dear to them, it should not be jeopardied by any measures of an angry and violent character." They recommend an earnest request for the repeal of the law, an address to their fellow-citizens throughout the union, to aid in the measure. They recommend to the people of Georgia, to produce within themselves, as much as possible, the principal articles affected by the tariff. This cool, judicious, and constitutional proceeding of the elite of Georgia, while

it formed a striking contrast, served as a powerful check to the violent proceedings of their neighbors.

*Grounds taken to sustain the excitement.* For the purpose of keeping up and increasing this excitement, propositions of the most untenable and deceptive character were industriously circulated among the people. Some of which were the following :

1. Upon the export of every hundred bales of cotton, and the importation of its avails in dutiable articles, the producer, that is, the southern planter, pays sixty of them into the treasury in the shape of impost, that being the average of duties. That this never can be collected of the consumer, because there being a constant supply in market, neither the demand nor the price can be increased. One obvious result of this position demonstrating its fallacy is, that three or four small states, producing cotton, pay nearly as much into the treasury as the whole amount of its receipts. It had, however, its designed effect.

2. That the south, in the character of consumers, are the greatest, and almost the only sufferers by the tariff. This, on examination, is found to be equally fallacious. The principal and most objectionable article in the act of 1828, is woolens. The climate of the north requires the consumption of double the amount of this article by any given number of inhabitants. At least three fourths of the people of the north are no otherwise interested in the success of woolen establishments, than as they participate in the general prosperity of the country. Admitting, therefore, that the consumer pays the duty, a position never controverted, except for the purposes of this excitement, and too obvious to require illustration, the population of the north, not interested in woolen manufactures, pay a heavier duty on that article than the south.

3. That the tariff will prevent the exportation of the southern staple to Great Britain, as she will not receive it, except in exchange for her manufactures. This position is bottomed upon the subversion of a principle as old and as demonstrable as any in mathematics, to wit, that the manufacturer will purchase the raw material where he can obtain it upon the best terms. As long as the British cotton merchant and manufacturer have in view the profits of their business, the planter may rest assured that his staple will find purchasers whenever it can be brought to market upon better terms, than the same article from other places.

4. That the protecting system has been adopted by an unrelenting and overbearing majority, and is not to be mitigated, however oppressive it may prove. Fears excited on this head are equally groundless, should a supply of any article fail of being produced at home on as good terms as from abroad, after a fair experiment, the south may rest assured it will be taken out of the tariff; and they need not rely on the charity or sympathies of their cold and heartless brethren of the north for this effect. In relation to any article of manufacture that can be named, nine tenths of the people of both sections are interested as consumers, and not as producers; it is impossible, therefore, that it should retain its place in the tariff, after a fair experiment which has proved unsuccessful. That there is a determination to make a thorough trial of the protecting system, which has been adopted and is now in operation in all other nations, and which has conducted them to wealth and greatness, cannot be doubted. The excitement bottomed upon these fallacious positions is beginning to subside by the effect of a more enlightened and correct course of reasoning. Colonel Drayton, a distinguished member of congress from the city of Charleston, in a decided manner has recently reprobated all disorderly and unconstitutional proceedings; and in a late contested election for municipal officers in that city, the question being between the advocates and opposers of the seditious and nullifying doctrines, the latter prevailed.

In this conflict of opinion, the views of Mr. Madison were anxiously sought. With the frankness and perspicuity characteristic of this venerable statesman, and in answer to the inquiries of a friend, he maintained in a conclusive course of reasoning, the power of congress to regulate trade and lay duties for the purpose of protecting domestic productions.

*British views of the tariff.* In the British parliament, Mr. Huskisson, on the 18th of July, moved for the production of copies of the American tariffs of 1824 and 1828. The professed objects of this motion were countervailing or retaliatory acts. Neither her statesmen there, nor her friends here, can with propriety complain of the adoption of a system which she had for a century adhered to, to the very letter, and which had contributed more than any thing else to her greatness. The debates in parliament on Mr. Huskisson's motion, exhibit the views of the ministry upon this subject. They affect to consider the tariff as an electioneering project, brought forward every four years to have

its influence in the choice of a president. They complain, that while they were adopting the liberal principles of free trade, America was entering upon the restrictive system. This boasted liberality, on examination, was found to consist only in abolishing prohibitions and prohibitory duties, when they were no longer necessary. It did not admit an article of American produce for consumption, but such only as her manufactures required, and such as were before admissible. They treat the measure as one of designed hostility, denominate it a weak and absurd policy, and threaten retaliation. They advise their merchants, that their goods may yet find their way to the American market through the Canadas, without the payment of any duties.\* Advantage was taken of the period between the passing of the law, and its going into operation, to introduce an immense quantity of British goods, to the injury of the American manufacturer.

*Fortification of the Canadas.* A debate in the British parliament, on the subject of fortifying the Canadas, became of interest to this country, as it brought into view the policy of that nation regarding her possessions on the North American continent, and her apprehensions in relation to the United States. In the year 1824, the duke of Wellington sent a commission of engineers to examine and report on the means of defense necessary for his majesty's North American colonies. They reported a system of fortifications, and canals for the transportation of the materiel of war, embracing an expenditure to the amount of ten millions of dollars. The object of first importance was the Rideau canal, along the northern bank of the St. Lawrence, from Kingston to Montreal. The rapids between those places render the ascending navigation hazardous, and of little value for heavy transportation, the channel in some places passing near the southern shore, the navigation is at all times subject to the control of the United States. These circumstances rendered the canal a work of immediate and essential importance to the defense of the upper country, as well as for commercial purposes. Grants to the crown, or, in the language of American legislation, appropriations, were made for its commencement. This, with the Welland canal, connecting the navigation of lakes Erie and Ontario,

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\* Parliamentary debates, July, 1828.

affords the provinces an inland sloop navigation from the ocean to lake Superior, a distance of nearly two thousand miles.

On the 7th of July, Sir H. Harding moved in the house of commons a grant to the amount of \$130,000, for erecting fortifications at Halifax and Kingston, as the commencement of a system embracing the views of Lord Wellington's commission of engineers. The opposition objected to this appropriation as a useless expenditure. They considered the British title to the Canadas, as little better than a tenancy, at the will of the United States; that they would soon become a component part of that power, or an independent sovereignty. In either case, the expenditure would be lost to them, and accrue to the benefit of their rival. The controversies between the governors and the provincial assemblies, chargeable, in a great measure, to the follies and imprudencies of the former, indicated such an event; to which, also, it might be added, the policy of restricting the navigation of the St. Lawrence, so beneficial to the inhabitants, both on its upper and lower banks, would very much contribute. The intercourse, connections, and mutual interests of the states and provinces, all lead to a speedy dissolution of the connection between the parent country and the colonies. By the time the contemplated works of defense were completed, which would probably occupy eight or ten years, Canada would be in a better situation to obtain her independence, than the United States were in 1775. She might always rely on a powerful co-operation from the states. Indeed, a more improvident and useless expenditure, could hardly be devised.

The replies of the ministry admitted that there were some grounds for the forebodings of the opposition, which the remarks themselves tended very much to bring about. They considered, that the interest and honor of the nation required, that the loss of their North American colonies should be guarded against with the utmost vigilance, and put off to the remotest period. Their speeches, as well as the large amount required for the object, indicated great sensibility, and an extreme jealousy towards the United States, in relation to the Canadas. The appropriation bill passed the house of commons: ayes, 126—noes, 51.

## CHAPTER XXIII.

Presidential election of 1829—The candidates—Preparatory measures—Nomination of General Jackson, by the legislature of Tennessee—His address and pledge—Charges against the administration—Result of the votes in the electoral colleges—Mr. Adams' last message to congress—Report of the secretaries of the treasury and war—Nomination of a judge of the supreme court postponed—Propositions to alter the judiciary law, and to amend the constitution—Brevet rank—General Scott suspended—Review of Mr. Adams' administration—Prosperous condition of the country—Foreign relations—Collection and disbursement of the revenue—Appointments to office—Support of the principles of internal improvements, and of the protecting system—Effects of a contest for the presidency.

*Presidential election of 1829.* The approaching presidential election was the all engrossing topic of political discussion for 1828. Jackson and Adams being of the same political party, or rather, party having become extinct, except from causes of a personal, sectional, and temporary character, the public had but little interest in the question, which of the two candidates should administer the government for the coming four years. The general course of American policy is so well settled, that no president, it was thought, would attempt to disturb it. The national progress to wealth and power is so steadily onwards, that even a weak or corrupt administration can do but little to impede it. The contest for the presidency of 1829, at its commencement, was chiefly of a personal nature, beginning first with the candidates and their particular friends, next extending to all whose expectations of office or emolument depended upon the success of either, and lastly to their friends, and all over whom they had any influence: appended to these, was a large class of minor politicians, whose object was to elevate themselves to notice by entering the lists.

Their course of reasoning was, "I am nothing now, I cannot be less, I may be more." This mass, combined and set in motion, was sufficiently powerful to agitate the whole community.

Disappointed in the result of the election of 1825 in the house of representatives, the friends of General Jackson determined to take the earliest and most effectual measures to secure the next. His banner was unfurled in the legisla-

ture of Tennessee, in October, 1825. A resolution passed both houses, almost unanimously, proffering him to their fellow-citizens for the chief magistracy, and expatiating at large on his many distinguished qualifications for the office. This resolution was responded to by General Jackson, not doubting the right of a state legislature to nominate a president, by a resignation of his seat in the senate of the United States. In his address accompanying the resignation, he suggested an amendment of the constitution, which embracing an important principle supposed to be the guide of his conduct in the event of a successful issue of the contest, ought to be recorded in his own words. "I would impose a provision rendering any member of congress ineligible to office under the general government, during the term for which he was elected and for two years thereafter." The reasons assigned are, "that congress would thereby in a considerable degree be free from that connection with the executive department which at present gives strong ground for apprehension and jealousy on the part of the people. That if this change in the constitution should not be obtained, and important appointments continue to devolve on the representatives in congress, corruption will become the order of the day, and through this channel the people may expect to be attacked in their constitutional sovereignty; and tyranny may well be apprehended to spring up on some favorable emergency. In conclusion," he says, "it is due to myself to practice upon the maxims recommended to others."

This public declaration of an important principle, calculated to secure the liberties of the people and the independence of the national legislature, accompanied with a solemn pledge that it should govern his conduct, was received with applause, and contributed much to the result of the canvass. The example of Tennessee was followed by several other states; and numerous conventions and meetings of the people, in different sections, and at various times, announced him as their candidate.

Thus early before the people, and unequivocally pledged as they supposed, to support an important constitutional principle, General Jackson's standard formed a rallying point, under which were collected all who had been opposed to the election of Mr. Adams, and all who had been disappointed in their expectations of office under him, constituting a majority of the nation. Of the thousand editors of newspapers throwing their daily and weekly lucubrations



into the hands of almost every elector in the United States, an important object was to engage as many as possible in the cause. In addition to the usual reward of the emoluments of the public printing, several of the most influential editors were made to expect lucrative appointments in case of success. A general belief that the offices and emoluments of the government would be distributed among the agents by whom the change should be brought about, in proportion to their zeal and talents in the cause, universally prevailed, and contributed much to its accomplishment.

Thus organized, the material point was to render the existing administration unpopular. The charge of a corrupt bargain between the president and secretary of state was reiterated, and pertinaciously adhered to through the whole canvass; and this although a bargain of the same nature existed between the candidate, and those engaged in promoting his election throughout the union. The conduct of the executive was narrowly watched in order to find materials for censure. The Panama mission was represented as a weak and injudicious measure, occasioning a great expenditure to no valuable purpose.

The failure to obtain a participation in the British West India trade was imputed to the errors of the administration.

The general charge of a wasteful, extravagant, and unconstitutional expenditure of the public money was constantly kept up, and endeavored to be supported by the researches of the retrenchment committee of 1827-8.

The motto, retrenchment and reform, surmounted the standard of General Jackson, and the people were made to believe that, under him, economy would be the order of the day.

The omission of the president, in his message of December, 1827, to recommend the subjects of internal improvement, and protection to domestic industry, was noticed as a weak attempt to conciliate, or at least to avoid giving offense, to the party opposed to those measures, and without gaining an individual from the ranks of his competitor, greatly weakened the attachment of his friends. Mr. Adams, personally, had few zealous supporters. Many who were in favor of the principles of his administration, and of his re-election, and who did not believe General Jackson qualified for the office, would have been glad to have seen the presidency in other hands. From the commencement of his political life, until the year 1807, he had been of the party denominated federalists, a term in 1828, denoting a

disqualification for office. His conversion was sudden, and being attended soon afterwards by an appointment of minister to Russia, it was supposed that he had obtained executive favor, by representing that the party from whom he had seceded, entertained treasonable designs against the government. This suspicion prevailed in a considerable degree during the canvass, and was confirmed by subsequent disclosures.

The charges against the administration, were promptly met and denied. Mr. Adams' long experience, distinguished talents, and high character as a statesman, were placed in a prominent view, and contrasted with the opposite qualities of his rival. General Jackson's merits as a soldier, were admitted; at the same time it was claimed, that they furnished no evidence of his capacity to perform the duties of the high office to which he aspired. On the other hand it was contended, that the frequent examples of arbitrary conduct, and repeated violations of the constitution, during his military career, which were brought forward and placed in bold relief, furnished strong grounds of apprehension that the liberties of the people would be unsafe in his hands. His conduct, from the commencement of his political life, was severely scanned, and every error placed in a conspicuous view. Towards the close of the contest, the private lives and characters of the aspirants were scrutinized, and every fault and foible exposed.

The administration called to their aid a principle which had been adopted, and adhered to with a single exception, since the commencement of the government, that of re-electing the incumbent for a second term. This, it was claimed, was productive of much good; giving consistency and stability to the executive, affording an opportunity for a fair experiment of its measures, and preventing the frequent returns of the cabals and intrigues, incident to a contest for the presidency.

A minute detail of the events of this election would form a dark page in the history of the republic. The contest ended in the choice of electors in November, 1828; and the result was a triumphant majority in the electoral colleges for General Jackson; 178 for him, and 83 for Mr. Adams. The latter had the votes of New Jersey and Delaware, all the New England votes, except one from Maine, sixteen from New York, and five from Maryland. All the other votes were for General Jackson.

*Close of Mr. Adams' administration.* Few important subjects of general concern engaged the attention of the twentieth congress at their second session. It was ascertained at its commencement, that the government was about to pass into the hands of other administrators. The present had little else to do but to close up their affairs, and deliver over the concerns of the nation into the hands of their successors. This they were desirous of doing at least with as much honor to themselves, as was compatible with the real state of the nation. The message and accompanying documents, communicated at the commencement of the session, were calculated to show that the business of the government had been well conducted for the last four years, and would pass into the hands of the succeeding administration, in a more prosperous condition, and less incumbered with debt, than when received by the present. The close of a presidential term, especially when attended with a change of administration, is a proper period to review the past, and place upon record the present condition of the nation, thereby to afford a ground to compare it with what it may be at the end of the succeeding term.

*Treasury report.* The treasury report gave a detailed view of the finances under Mr. Adams' administration, compared with that of the preceding four years, the material results of which were, that the absolute increase of revenue exceeded eighteen millions:

That the tariff of 1824, had considerably increased the receipts at the treasury:

That the consumption of foreign goods, had, on an average, been eighteen per cent a year more, than the preceding four years:

That all the accruing interest, and upwards of thirty millions of the principal of the public debt had been paid, leaving its amount on the 1st of January, 1830, \$51,362,135, exclusive of seven millions due the bank of the United States, for which they own an equal amount of stock:

And that fourteen millions had been applied to objects of defense, and internal improvements of a permanent nature, furnishing a kind of national capital, for the benefit, not only of the present, but of succeeding generations.

From this view, the secretary infers that the nation, in its financial and commercial concerns, is in a prosperous and rapidly improving condition; claiming, however, no other merit for the administration, than an economical use, and a faithful collection and disbursement of the public moneys, for the objects for which they are appropriated by law.

The secretaries of war and the navy, also gave a detailed view, showing the prosperous condition of their respective charges. The secretary at war entered into a particular consideration of that branch of his department which related to Indian affairs. In his view, the practice of instructing and civilizing them by one set of agents, and thereby creating an attachment to their possessions; and sending them another, to deprive them of their lands, by every means short of the bayonet, was the most inconsistent and destructive policy that could be adopted. He recommends to provide a country, north and west of the Arkansas territory, sufficiently large for their comfortable subsistence; to induce them, by liberal offers, to exchange their lands within the states and organized territories, for this country; to provide for their support, while emigrating and settling; and to afford them the means of protection and civilization. This removal, he considers, should be entirely optional; and that those who choose to remain, should enjoy protection in their persons and possessions, and be subject to the laws of the states and territories within which they resided.

*Nomination of a judge postponed.* Early in the session, the president nominated to the senate, Mr. Crittenden, of Kentucky, as an associate justice of the supreme court, in the place of Mr. Trimble, who died the preceding August. The judiciary committee, to whom the nomination was referred, reported that it was inexpedient to act upon it at this session. The report occasioned a debate of a party character, between the friends of the present administration, and those who were to be their successors. It was claimed to be the duty of the president, under the obligations of the constitution, requiring him to see that the laws were faithfully executed, to fill all important vacancies, especially those of the supreme court, without any unnecessary delay; and equally obligatory upon the senate, promptly to act upon his nominations. That no other question could properly come before them, than the fitness of the person for the office; and no other delay be justifiable, but such as was necessary to obtain information relating to his qualifications. That the high duties appertaining to the supreme court, at their annual session, required, as well for the correct decision of cases, as for the satisfaction of the public, that that body should be full. The report was accepted, and the nomination indefinitely postponed. The session of

the court was delayed several days, for the want of a quorum, and the body was not full during the term.

This unusual course was attributed to a wish, on the part of those who were to come into office, to give the president elect an opportunity of selecting a judge, it might be to reward a partisan, and if, thereby, a vacancy was made in some other department, to extend executive patronage. Subsequent events gave countenance to such suspicions.

An unsuccessful attempt was made in the house, to alter the judiciary law, so as to require a concurrence of five judges of the supreme court, to declare any state law or constitution void. A like result attended a resolution introduced by Mr. Smyth, of Virginia, to amend the constitution, so as to extend the term of the presidency to six years, and render the incumbent ineligible for a second term.

*General Scott.* The appointment of General Macomb, as successor to General Brown, to the command in chief of the army, occasioned a dispute of a serious nature, between the war department and General Scott. The latter was senior brigadier, by a regular appointment, and had been major general by brevet, since the year 1814. He claimed that his brevet commission, being an honor conferred upon him for signal services in that year, gave him a full title to the rank and command of a major general, from that period. That he was thereby senior to General Macomb, and the president and senate could not, by appointing the latter to the chief command, transfer the seniority. With these views of his rank, he refused to receive or execute any orders from General Macomb, and was in consequence suspended. He applied to the war department for a court martial, to settle the question as to the effect of a brevet commission, and to congress, to explain it by a declaratory law. Both applications were unsuccessful, it being the opinion of the department, and of congress, that, be that question as it may, the president and senate had power to appoint a commander in chief, whose authority extended over the officers of every rank and grade in the army.

During the period of his suspension, General Scott, visited Lafayette, in France, and submitted his case to that experienced officer, for advice. The latter, without deciding, precisely, the question of brevet rank, advised him to submit to the decision of the president, and resume his station in the army; which he accordingly did, to the satisfaction of his friends and the public.

The third of March, 1829, terminated the labors of the twentieth congress, and the administration of 1825.

*Character of the administration.* No administration, since the commencement of the government, has been so severely scrutinized as that of the second Adams. It commenced with an opposition, consisting of a majority of the people, and about an equal division of both houses of congress, which increased during the period, and effected a change at its close. That the nation has increased in its revenue, commerce, navigation, manufactures, population, and general wealth, cannot be doubted. This, however, is to be attributed rather to the natural course of events, than to any extraordinary merits of the administration. That they have done nothing materially to interrupt the progress of national prosperity, is what the candid of their opponents are willing to accede. That peace has been preserved, and a respectable station maintained with foreign powers, must be admitted. The latter being the effect of an able diplomatic representation, Mr. Adams is entitled to the credit, at least, of making a judicious selection. The tone and character of the government, has been well sustained, by a talented cabinet.

The subjects of discussion with foreign powers have been few, and have terminated unsuccessfully. This is to be imputed, not to the want of talent or zeal in the administration or its agents; but to the reluctance of those powers to accede to the demands of this. The claims for indemnities for spoliations have been prosecuted without success. With Great Britain, several important questions have been discussed, but without coming to any result satisfactory to the American government. The three principal points on which the governments are at issue, the colonial trade, the free navigation of the St. Lawrence, and the northeastern boundary, have been ably sustained, and terminated in these results: that a participation in the trade to the British West Indies is not to be obtained, but upon such terms as ought not to be accepted; that the free navigation of the St. Lawrence, for the citizens of the United States, bordering upon its upper waters, through the British territories to the ocean, is not to be expected, except by purchase or conquest. The extensive system of defense, recently commenced by Great Britain, in the Canadas, show that either conquest or purchase must be dear. The question of the northeastern boundary, embracing about one third of the territory of the

state of Maine, has been thoroughly examined, and is in a train of amicable adjustment before the king of the Netherlands, as an umpire.

During Mr. Adams' term, eighty-four millions of revenue were collected and disbursed, passing through the hands of several hundred agents, with less percentage loss than usually attends operations of a similar nature, by vigilant individuals, the estimate being less than one half of one per cent. This is highly creditable to the great body of officers concerned in managing the national finances. At the same time the "searching operations" which immediately succeeded, discovered several frauds, and peculations on the treasury disgraceful to the perpetrators.

Few removals took place during his administration, none but for alleged official misconduct. Succeeding to the presidency without competition with the previous incumbent, no hostility existed between Mr. Adams, and the office holders under his predecessor; and of course no inducement to a system of proscription, and a prostitution of the power of appointment and removal, to the purpose of rewards and punishments. Not confined in his appointments exclusively to those who had been instrumental in his elevation, he had a greater range, and a better opportunity to make a judicious selection.

The administration were the decided friends and able advocates of a system of internal improvements upon a liberal scale. In their view, great national objects, as well as private and local advantages, were to be obtained by facilitating the intercourse between the distant parts of the union. They were likewise the firm supporters of the principle of protecting domestic industry, by the imposition of duties which should exclude foreign articles as fast as a home supply on fair terms, could be furnished. Believing these points to be essential to the prosperity of the nation, they labored with great assiduity and success in establishing them.

The events attending the political change of 1829, evince that when a prize of such magnitude as the presidency of the United States is set up, free to be contended for by all their citizens, the struggle will be arduous. All the human passions will be called into operation. The character of the means will not be regarded, so be it they conduce to the end. In other nations, struggles for the supreme power have ever been attended with bloodshed. In this, the same passions operating, the virtue and intelligence of the people

with the most alarming examples in their own hemisphere before them, have hitherto stopped short of the last resort; whether with the increasing magnitude of the object this will continue to be the case is as yet problematical, and dependent upon the good sense, virtue, and moderation of the American people.



## CHAPTER XXIV.

Commencement of the administration of 1829—Inaugural address—Tenure of office—Former practice in relation thereto—Meeting of the senate—Nominations—New principle relating to appointment and removal—Adjournment of senate—Removals and appointments in the recess—Meeting of the Virginia convention to revise their constitution—Their proceedings—The revised constitution adopted—First meeting of the 21st congress—Message—Subjects recommended—Mr. Foots resolution relating to public lands. Debates on various subjects occasioned thereby—Latitude of debate—State of the public domain, and policy relating to it—Report of committees relating to the bank—Indian affairs—Debates thereon—Policy of the administration relating to them—Proceedings of Georgia—Mr. Mallary's bill relating to the revenue—Mr. M'Duffie's amendment—Tariff discussion—Proceedings of the senate relating to appointments and removals—Subsidizing the press—Major Barney's case—Report of the retrenchment committee—Maysville act—Veto thereon—New principles relating to internal improvements—Rising of congress—President's proceedings in relation to a duel—New organization of parties.

*Inaugural address.* On the 4th of March, 1829, General Jackson was inducted into office with the accustomed ceremonies, and in the presence of a numerous and brilliant assembly, delivered an inaugural address, explanatory of the principles on which the government would be conducted during his presidency. The paragraph which excited most interest on this occasion, was in the following terms: "The recent demonstrations of public opinion inscribes on the list of executive duties, in characters too legible to be overlooked, the task of REFORM, which will require particularly the correction of abuses that have brought the patronage of the federal government into conflict with the freedom of elections, and the counteraction of those causes which have disturbed the rightful course of appointment, and have placed or continued power in unfaithful or incompetent hands." This paragraph, somewhat enigmatical indeed, as applicable to removals and appointments, gave the public to expect that a reform would take place only where the incumbents were unfaithful or incompetent, and that in a manner that should not prejudice the elective franchise. It was little thought that the proper way to prevent the patronage of government from coming into conflict with the freedom of elections, was for the successful candidate to remove from office those who had voted for his rival, for the purpose

of making vacancies to be filled with the active instruments of his elevation.

Hopes and fears were entertained at this period of intense anxiety, by the holders and expectants of office and their friends. The sound part of the community, excluding those classes, expected that the government would be administered upon principles which had carried it along in safety forty years, unless, indeed, material defects were pointed out which required a remedy.

*Tenure of office.* The tenure of all offices, the judiciary excepted, was fixed by a law of the first congress under the constitution, in 1789, to be during the pleasure of the president. The uniform construction of this law, since its enactment, has been, that this is not an arbitrary or capricious pleasure, to be exercised in a manner to gratify the personal prejudices and partialities of the chief magistrate, or to reward partisans; but that it is to be guided by a sound discretion for the public good.

As applicable to the heads of departments, constituting by usage a cabinet or council of advice, this construction settles, that each president should select those whose general views and policy correspond with his own, without regard to those in office under his predecessor.

In regard to the diplomatic corps, that such should be selected as would faithfully interpret the views of their own government to the courts to which they are sent. Several reasons have operated against frequent changes. The additional expense ought to be some object to a government engaged in the important work of retrenchment and reform. This, embracing an outfit of \$9,000, a double salary from the time the new minister receives his appointment, until the one recalled reaches his home, and two passages usually in a public ship, cannot be estimated short of \$20,000 necessarily incident to each change.

The delay which must attend any negotiations that may be on foot, is another important consideration. A third is, that where a minister has rendered himself agreeable to the court to which he is sent, his recall is always unpleasant to that court. It will take the new minister a considerable time, should he ever be able to obtain the same influence which his predecessor had. Whatever the pretenses may be, the foreign court will soon learn the true reason of the change, and will set little value upon a government subject to such caprices every four years.

In relation to the great mass of public functionaries, the practical construction of the law of 1789 has been, that they should hold their offices so long as they continued to execute them well, not to be removed except for official misconduct. The considerations leading to the adoption of this principle, have been twofold, one relating to the officers themselves, the other to the public.

As a general rule, compensation is graduated in such manner as to be nothing more than a reasonable reward for the service required. Fortunes are never honestly made by salaries; and generally the officer leaves the service with less property than he would have acquired in the pursuit of the private business which he relinquished. In the greater number of instances, it will be impossible for him to resume that business, or successfully engage in any other. By the operation of the proscribing principle, he finds himself, on a change of the presidency, thrown out of employment, often with a numerous family, without the means of support, for no other reason than that he honestly exercised his right of suffrage. Though no legal right is infringed, every one feels that great injustice is done to an individual thus circumstanced.

Public opinion is also jeopardized by such a course. The principle once settled, that office is held at the nod of the superior, no honest, independent, capable man can be expected to accept; the public must then be served by sycophants, devoted to the views of their chief, be they ever so corrupt. Under such a regimen, frauds and peculations on the treasury, frequent enough at best, must be expected to increase. But admitting that honest and capable men can be found to accept office under such circumstances, they have not experience. This, other things being equal, gives a decided preference; and is all-important, both in the management of public and private concerns. No prudent individual changes his agent, who manages his affairs well; neither can the government do it with safety.

*Applications for office.* At the commencement of General Jackson's administration, there were a great number of officers in the various departments of government, most of whom had received their appointments long before the accession of Mr. Adams, and who had claims to a continuance, of the nature which has been stated. On the other hand were several thousand applicants for office, from the highest to the lowest grade, who had exerted themselves with zeal in the late canvass, in favor of the successful

candidate, and who had been given to expect a distribution of the offices in the gift of the executive, as a reward for their services.

*Nominations to the senate.* President Adams, agreeable to what had been the usage on similar occasions, called a meeting of the senate, to be held on the fourth of March. To this body General Jackson presented a nomination of the heads of departments consisting principally of members of congress; this, compared with his address to the legislature of Tennessee, and pledge on the occasion, excited some surprise. The nomination, however, passed the senate with little opposition. The same course was pursued in relation to the diplomacy. General Harrison, who had scarcely arrived at the place of his destination, as minister to Colombia, was superseded by the appointment of Mr. Moore, member of congress from Kentucky. The public have been informed of no other reason for this change, than that the new minister had been a zealous and efficient agent in the late election. In the course of the year, the ministers to Great Britain, France, and Spain, were changed, and all taken from the halls of congress. Their outfits amounting to thirty-six thousand dollars, were taken from the treasury without a specific appropriation for the purpose. A list of about eighty other appointments, embracing many of the important custom-house offices, and mostly made in consequence of removals, was also presented and confirmed.

*Post office.* The change in the head of the post office department, was the most exceptionable. Mr. M'Lean had been postmaster general about five years, receiving his appointment from Mr. Monroe. He found the department in a very deranged state, and by a judicious and efficient management, had raised it to a high standing. Attentive to his official duties, he had taken no active part in the late canvass, but was supposed to be favorable to General Jackson's election. He had given the new administration to understand that no removals would take place in that department while under his control, but for official misconduct. This not meeting their views, Mr. M'Lean was transferred to the supreme court, to fill the vacancy occasioned by the death of Judge Trimble, and which had been kept in reservation by the senate, and Mr. Barry appointed his successor. In the course of the year a general change of assistants and clerks took place in the bureau at Washington, and four hundred and ninety-one removals in the country. Such a change

could not take place without some derangement in the affairs of the office. Of the whole number of hungry expectants who were gratified, some, as might have been expected, were unworthy. Some peculated upon the public, and some on the private property intrusted to the mail. The expenses accumulated beyond the revenue of the office.

*Appointments during the recess.* The senate having acted on all the nominations presented to them, closed their extra session on the 18th of March. That body having a controlling voice in appointments, such a session is deemed expedient at the commencement of a new administration, to prevent the necessity of executive appointments during the recess. That provision in the constitution which authorizes the president to supply vacancies which might happen when the senate was not in session, by temporary commissions which should expire at the end of the succeeding term, evidently refers to cases of death, resignation, and removal from incapacity or misconduct. That the president might make vacancies where those reasons did not exist, for the purpose of filling them with his friends, was a perversion, both of the letter and spirit of the constitution, entirely unexpected. The changes made during the session were but the commencement of a general system of proscription. Soon after the adjournment of the senate, a great number of vacancies were made, or in the language of the constitution, *happened* by removal for no other cause apparent, or made known to the public, but that the incumbent preferred Mr. Adams, and the newly appointed officer General Jackson, for the presidency. In the newspapers supposed to speak the language of the cabinet, the principle was openly avowed, that offices were to be the rewards of zeal in the cause of the successful candidate. The subject was systemized, and agents designated in different sections, to certify the qualifications of applicants, among which exertions in the late canvass, were the most important. The word reform in the inaugural address, was found to be of much more portentous import than was apprehended; its practical meaning being the removal of the friends of Mr. Adams, to make room for those of General Jackson. As a comment on the liberty of the press, two printers, who had distinguished themselves in favor of the successful candidate, were rewarded with lucrative offices at the seat of government, and about forty others in different sections. No proofs have been adduced,

and probably none exist, of a specific bargain between the candidate and the instruments of his elevation, that office should be the reward of their exertions, but the whole course of removals and appointments lead to the conclusion that such was the expectation.

The doctrine that the prerogative of appointment and removal was to be made the instrument of rewards and punishments, so novel in the American system, and so destructive of all that is valuable in it, was adopted with great caution, and with attempts to justify it in the government papers. It was introduced to the people under the fascinating terms of economy and reform. The example of Jefferson at the commencement of his administration, was referred to in its support. In his inaugural, the president informs the people, "that he shall look to the examples of his illustrious predecessors, and with veneration to the lights that flow from the mind that founded, and the mind that reformed our system," referring to Washington and Jefferson. The example of the former was unfortunate for the purpose for which it was adduced. Washington had no feelings in common with those who adopted this system of proscription. He selected his cabinet and the principal officers of government indiscriminately from the two great parties into which the United States were then divided, and took the earliest opportunity to inform applicants for office, that personal considerations would have no influence in selecting public servants.\* At the accession of Mr. Jefferson, power had almost exclusively been in the hands of the party called federalists twelve years, their opponents denominated republicans, always nearly equal in numbers, had then become the majority. Mr. Jefferson announced a determination to restore an equilibrium in the distribution of office, among the two great political parties so soon as it could be done consistently with the public interest. The present was an entirely different case. Adams and Jackson were of the same party. Both had supported the administrations of Mr. Adams' predecessors, and sustained distinguished offices under them. Neither they nor their friends were divided on any important political topics. The question was a mere personal one, to wit, which of the two candidates was the most competent to discharge the duties of chief magistrate of the union? A question on which men might honestly

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\* Marshall's life of Washington.

entertain different opinions, and on which it was desirable that public officers as well as all other citizens might freely act, without fear of disfranchisement, or expulsion from office.

Some instances of fraud and peculation which had escaped the vigilance of Mr. Adams' administration being found, were brought forward and placed in a prominent view. These were made use of, not only to justify removals in those cases, but in others, where there was no such imputation. From these instances, an attempt was made to impress a belief on the public that there was much corruption, and a general remissness in the management of the concerns of the nation.

*Virginia convention.* The constitution of Virginia, the oldest of the union, was formed in 1776, a short time before the declaration of independence. Made to suit the wants of a small population on the east of the Allegany, many of its provisions were ill adapted to the exigencies of the state in 1829, extending from the Atlantic to the Ohio. One of its most exceptionable articles confined the right of suffrage to land-holders. At the session of the legislature in 1828, a resolution passed making provision for taking the suffrages of the people, on the question of calling a convention to revise the constitution. On collecting the votes, there appeared a small majority in favor of the measure, and at the next session, provision was made for holding the convention on the first Monday in October, 1829.

The blue ridge, a branch of the Allegany mountain, divides the state into eastern and western sections, having different views and interests, each were anxious to be represented by their ablest men in the convention. The people seem to have laid aside all prejudice and party feeling, except what arose from this sectional division, and united in selecting their most talented citizens. Ex-presidents Madison and Monroe, Chief Justice Marshall, Governor Giles, two of their former governors, and most of their distinguished members of congress were elected. The convention exhibited an assemblage of character and talent rarely to be found.

The great point on which the convention were nearly equally divided, and which occasioned a protracted discussion, was the basis of apportioning the legislature. The eastern section claimed that the ratio should be fixed on the white population, and taxation combined; the western that it should be apportioned on the white population alone. The former principle would give the slaves a great effect in

fixing the number of representatives, and preserve the ascendancy in the east. The latter was calculated to give a preponderating influence to the west. In that event the east were apprehensive, that the west having the power in their own hands, would unreasonably tax the slave holding part of the state, and engage in extensive systems of internal improvement, exclusively for their benefit. An arduous discussion of nearly three months terminated in a compromise by which a given number of members were apportioned to each section, without conforming precisely to either principle. The whole number of representatives was fixed at 134, of which 78 were east, and 56 west of the blue ridge. The senate was to consist of 32 members, 19 in the eastern, and 13 in the western section, with power in the legislature to reapportion them at the end of every ten years.

Another point which occasioned much discussion was, the extension and limitation of the right of suffrage. It was finally made to embrace all heads of families paying taxes to the state, and all persons possessing a small freehold. These subjects being disposed of, little difficulty was found in arranging the others. The governor, judges of the higher courts, and other principal officers were to be chosen by joint ballot, of both houses of assembly. The tenure of the governor's office was three years, and not eligible for the succeeding term, that of the judges during good behaviour, subject to removal on application of two thirds of both branches of the legislature. All laws were to originate in the house of representatives. The votes on the final question on the adoption of the constitution were, ayes 55, noes 40. It was then submitted to the people, and accepted by a considerable majority.

*Meeting of the 21st Congress.* The president's message at the opening of the first session of the twenty-first congress, December 7th, 1829, was an able state paper of great length, delineating the general policy of the administration, and containing a correct and pleasing view of the domestic and foreign concerns of the nation. It was sought with great avidity, and conveyed from Washington to the remotest parts of the union, with the unusual speed of from ten to twenty miles an hour. It reached Boston, 436 miles from the place of delivery, in 31 hours.

*Measures recommended.* The prominent measures recommended, were,

An amendment of the constitution, on the subject of choosing a president, in such a manner that it may be done



by the people without the intervention of electors ; and that he should be ineligible for a second term :

A review and alteration of the judiciary law, in such manner as to extend the circuit court to all the states. As this would increase the number of judges of the supreme court to an extent beyond what is proper, the novel and extraordinary expedient is proposed of dividing the court into two equal sections, each to hold alternately a session of the supreme court at the seat of government, the chief justice always presiding :

On the subject of the navy, a discontinuance of building ships of the larger classes, and instead thereof an accumulation of materials, prepared in such manner that they might readily be put together in case of war :

A gradual reduction of duties on such articles as are of general consumption, and not the production of the country.

*Retrenchment.* On the subject of retrenchment, a general and minute inquiry into the condition of the government, with a view to ascertain what offices can be dispensed with, and what expenses retrenched. Without designating any particular subjects of retrenchment, and leaving to congress to discover, if in their power, what useless officers the executive had kept in its employment, the president recommends a new organization of the department of state in a manner which will necessarily increase its expenditure ; and the establishment of a new department to be denominated a law department, on the same footing in relation to salary, clerks, and appendages, as the others, increasing the expenses of the cabinet alone to the extent at least of twenty thousand dollars.

*Tariff.* In relation to the tariff, the message recognizes the power of congress to lay protecting duties, and states, " that its operation thus far has not been so injurious to commerce and agriculture, or beneficial to manufactures, as was anticipated. That importations of foreign goods had not been sensibly diminished ; and that a domestic competition had produced a supply beyond the demand for home consumption, and a consequent diminution of price.

*Internal Improvements.* On the subject of internal improvements, the message is inexplicit. It speaks well of the subject in general terms ; but seems to think that insurmountable difficulties exist in making appropriations to particular objects, not however expressly denying the power of government to do it. It then proposes to distribute the surplus revenue, after the extinguishment of the public debt,

to the states, according to the ratio of representation ; doubting however whether this power is strictly within the letter of the constitution, he recommends having recourse to another amendment conferring the power. Speaking of that instrument, he says, "*the scheme has worked well,*" urges the necessity of keeping within its limits, and warns congress against all encroachments upon the legitimate sphere of state sovereignty.

**Indians.** In relation to the Indians, the message, after professing great regard for their destinies, denies the power of the general government to protect them from the oppression of state sovereignties, condemns the policy which has been heretofore adopted towards them, abandons them to the mercies of the state legislatures, within whose chartered limits their lands are situated, and recommends a provision for their retreat to the west.

**Removals.** The message recognizes the principle of removals which had been adopted by the executive, and attempts to justify it in the following terms :—"Men cannot for any great length of time enjoy office and power without being under the influence of feelings unfavorable to a faithful discharge of their public duties. Corruption in some, and a perversion of correct feelings and principles in others, divert government from its legitimate ends and make it an engine for the support of the few at the expense of the many. Its offices are created solely for the benefit of the people. No one man has any more intrinsic right to official station than another. No individual wrong is done by removal, since neither appointment or continuance in office is matter of right."

In the opinion of the president, more is lost by the long continuance of men in office, than is gained by their experience.

**Bank.** On the subject of the bank, the charter of which will expire in 1836, the president remarks, "that the question of its renewal ought to be seasonably disposed of ; that its constitutionality and expediency are well questioned by a large portion of the community ; and that it is admitted by all to have failed in the great end of establishing a uniform and sound currency." He recommends as a substitute, a national bank, founded upon the credit and revenues of the government, and subject to its entire control ; seeing no constitutional difficulties in the way of diverting the national revenue from its appropriate objects, to banking operations,

The message recommended a variety of other measures of minor importance. It was received and echoed in the administration papers with unbounded applause. By others many of its positions were denied, and much of its policy questioned. In congress some of the measures were passed over in silence, some expressly condemned, and others approved by small majorities.

*Mr. Foot's resolution.* In the senate, Mr. Foot, of Connecticut, introduced a resolution, which, after undergoing an amendment, became the subject of discussion, in the following terms: "That the committee on public lands be instructed to inquire and report the quantity of public lands remaining unsold, within each state and territory, and whether it be expedient to limit, for a certain period, the sales of the public lands, to such lands only as have heretofore been offered for sale, and are now subject to entry at the minimum price; and also whether the office of surveyor general, and some of the land offices, may not be abolished, without detriment to the public interest; or whether it be expedient to adopt measures to hasten the sales, and extend more rapidly the surveys of the public lands." As there were a hundred millions of acres of the national domain already surveyed, remaining unsold, which, at the rate of a million of acres a year, the average rate at which they had been taken up, would supply the market for a century, the mover supposed the surveys might be suspended, and thereby a considerable retrenchment made in the public expenditure, without prejudice to the sales. Resolutions, the object of which is to obtain information, or to inquire into the expediency of a measure, usually pass with little debate, the proper period of discussion being when the committee report something which requires the action of congress. One branch of the resolution contemplating measures to hasten the sales, and a majority of the committee to whom the subject was to be referred, being western members, it was least of all apprehended, that there was any thing in the resolution which could excite alarm, or jeopardize the interests of the west. But it was viewed in a different light, and denounced as a measure of deliberate hostility, designed to prevent emigration, and check the growth of that section of the union. The real, and only material objection to a discontinuance of the surveys, was, that it might abridge the emigrant in his choice of lands, and, in this manner, impede the progress of settlement; this being perceived, and the measure being obnoxious to

the western members, a motion was made, by a senator from the east, for an indefinite postponement, which prevailed. This, probably, would have been the result in an early stage of the business, had not a member from Missouri taken occasion to charge upon New England a fixed design to prevent the settlement, growth, and influence of the west. In a speech protracted through several days, he endeavored to support the charge, by argument and historical facts. He found an eloquent coadjutor in a member from South Carolina, aided by one from New Hampshire. Mr. Webster, from Massachusetts, ably seconded by the whole representation in the senate from New England, Mr. Woodbury of New Hampshire excepted, repelled the charge, with success. From a detailed view of the proceedings of congress, in relation to the settlement and protection of the west, from the earliest period, in all which New England took an active and influential part, Mr. Webster clearly showed, that the growth and prosperity of that section had ever been a primary object. No feeling of hostility ever existed—none, from the nature of things, could exist, between the two sections. Few New England men are to be found, who have not children, near connections, friends, and neighbors, in the west. Their prosperity is dear to those whom they have left; it contributes to the healthful condition and happiness of the whole. The eloquent senator clearly demonstrated, that the member from Missouri very much misconceived the policy and views of New England, when he supposed that, for the paltry purpose of cheapening labor, they were disposed to retain that portion of their population among them, who could better their condition by emigration. The father says to his son, the brother to the brother, and the neighbor to his less prosperous friend, "Go, and your success will always rejoice my heart."

In conducting this attack on the east, the senator from South Carolina, by the aid of his friend from New Hampshire, collected most of the seditious pamphlets, speeches, and newspaper publications, to which the embargo, restrictions, and war measures, from 1807 to 1815, had given rise, and endeavored to fasten the odium of them upon the present New England policy. Mr. Webster replied, showing the entire injustice of imputing the political heresies and sins of the dominant party in New England, twenty years ago, to another generation of politicians, of an entirely different stamp. Bad and seditious as they might be considered, when the circumstances to which they owed their

origin were forgotten; the eloquent senator contended they were light as air, compared with the hostile and treasonable proceedings of South Carolina, in relation to the tariff.

*Latitude of debate.* Owing to a decision of the president of the senate, in 1826, that he had not the power to call a senator to order, on the ground that his remarks did not apply to the subject under consideration, a practice had grown up, unprecedented in any other legislative body, of making speeches not having any relation to the matter on which they were to act. However much this may be lamented, as a waste of time, on the present occasion, being used in its fullest latitude, it was productive of much good.

*Mr. Barton.* Availing himself of this license, the other senator of Missouri, the antipode of his colleague, after making an apology to the senate contingent upon his touching on the subject of the resolution before them, took a view of the conduct of the cabinet in relation to removals and appointments, denominating them a board of rewards and punishments. The fact that the president, with the advice of the cabinet, ejected persons from office because they had opposed his election to make room for those who had supported him, he considered as proved by the whole course of executive proceedings. This practice he denounced, as a violation of the best principles of the constitution, a perversion of executive power, and tending to the destruction of all that is valuable in the republic. This he considers as the more dangerous, being done under the hypocritical pretense of reform, and accompanied with repeated cautions against the influence of executive patronage.

*Mr. Hayne.* Mr. Hayne, of South Carolina, taking advantage of the same latitude of debate, advanced a doctrine recently promulgated by the legislature of South Carolina, couched in the following terms: "In case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, (constitution) the states who are parties thereto have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights, and liberties appertaining to them." This doctrine he claimed to be not only that of the south, and of the present cabinet, but also of Jefferson, Madison, and Giles. The principle, reduced to practice, simply is, that the legislature of each state must take to itself the right of judging when congress in the enactment of a law transcend their powers, and finding that they do in a given case, must resist

its execution within its limits. The slightest view of the history of this republic from its commencement is sufficient to show that many important acts of congress have at various times been denounced as unconstitutional; their operation must of course, according to the new doctrine, be confined to the states acceding to them. Admitting the principle, few acts could be passed, but what some of the states would deem unconstitutional and would have right to resist. Congress, depending on the unanimous assent of twenty-four sovereignties for the validity of their laws would be powerless. It would seem that a proposition, when stripped of its disguise, went to reduce the states to the condition of the confederacy of 1776, need only to be stated in order to be reprobated. The surprise is, that an administration, having at its head a chief who in the year 1814 was ready to execute martial law in its severest penalties, upon any who dared to complain that the proceedings of the general government were unconstitutional, should adopt a principle which deprived the constitution of all its energy.

*Mr. Webster.* The introduction of the subject into this debate, however foreign from the resolution under consideration, was a fortunate circumstance, as it gave Mr. Webster an opportunity to vindicate the constitution from an attack that went to destroy all its efficacy. His speech upon this occasion, rarely equalled in any assembly, demonstrating the utter fallacy of the principle, and its pernicious consequences, found its way by means of a hundred thousand copies into the hands of the people, carrying conviction to their understandings, and rescuing the constitution from a blow calculated to destroy it.

*National domain.* The debate on Mr. Foot's resolution in the senate, and that in the house of representatives on a resolution introduced by Mr. Hunt, of Vermont, to appropriate the avails of the public lands to the states, in proportion to the ratio of representatives in congress, for the purposes of education and internal improvement, brought the whole subject of the national domain under consideration, and the policy and views of the different sections of the union in relation to it. Its vast, and undefined extent, exceeds the wants of the nation for centuries to come. Admitting the sale and settlement of new lands to progress at the rate it has done for thirty years past, it will not all be occupied in less than five hundred years. The expenses of purchase, survey, and defense, have as yet exceeded the receipts from the sales, so that the national treasury has never

been benefited by them. The plan early adopted by congress was well suited to encourage sale and settlement. The lands were laid off into townships of six miles square, divided into thirty-six sections of one mile each, containing six hundred and forty acres; these again were divided into quarters, of half a mile square, containing one hundred and sixty acres. By means of land offices conveniently located, they were offered for sale upon such terms to actual settlers, as would place it in the power of almost any individual to obtain a freehold sufficient to support a family. A system better calculated to encourage the settlement and growth of the west could hardly be devised. A moderate price, a long credit, and an opportunity of making a selection from numerous tracts, were all calculated to invite settlers. In addition, government have always been lenient, and passed numerous laws for the relief of their land debtors when unable to fulfil their contracts. An appropriation of one section in each township is made for the support of schools for the use of the inhabitants, and in most of the new states one or more townships for the endowment of colleges. Liberal grants have also been made for the purposes of canals, and other internal improvements. With all these acts before him in the passing of which the New England states took a friendly and decided part, the senator from Missouri must have been grossly blinded to impute to them an unfriendly policy towards the west.

The claim is, on the part of the new states, that the public lands within their limits should be given up to the states in which they are located, either gratuitously, or for a compensation merely nominal. The principle, indeed, has been advanced, that the act of admitting a state into the union, and conferring jurisdiction over its territory, is inconsistent with retaining ownership of the soil. This course would probably throw the lands into the hands of speculators, who would enhance the price to settlers. Another plan is embraced in the proposition of Mr. Hunt, and relates merely to the disposition of the avails. A third is that of Mr. Foot, to suspend further surveys for the present. A fourth, to continue the present system of surveys and sales, and to appropriate the avails to the general purposes of the government.

*Bank.* That portion of the president's message which related to the bank of the United States, was referred in the house of representatives to the committee of ways and means. It appeared extraordinary to them, that this cor-

poration, whose period of existence, by its present charter, exceeded, by upwards of three years, that of the political life of the president, should be threatened with annihilation. The only legitimate mode in which the subject could at all come under consideration, would be an application on the part of the bank for the renewal of its charter. The time of making this application, and the manner of enforcing it, rested altogether with the bank. Any attempt to forestall public opinion, any declaration on the part of congress that they would or would not grant the application, without hearing the reasons which the corporation might have to assign, or the propositions they might offer, must be in the highest degree unjust and improper. Much less was it to be expected that an executive, who, upon his own principles of rotation, could not expect to be in official existence after March, 1833, should dictate a course to be pursued by his successor, and the congress that might be called to act upon the subject after that period. Improper as it was, however, it had the effect to reduce the stock ten per cent. Mr. M'Duffie, chairman of that committee, presented an able and convincing report to the house, showing (in terms indeed highly respectful to the president) that he was mistaken in all the material facts relating to the bank; that he was entirely unacquainted with the subject; that his reasoning was conclusive, and his project of a national bank, to be furnished with a capital from the treasury, was in the highest degree absurd. The report then proceeded to show, from admitted facts, that the bank had faithfully performed its duties; that it had given a sound currency to the country; that its aid in collecting, safe keeping, and transferring the public moneys from one section of the country to another, without expense to the treasury, was a great saving, and that such an institution was essential to the correct management of the national finances. The committee then remark, that the refusal to renew this charter, for the purpose of creating another institution on similar principles, was a wanton exercise of power, producing much individual embarrassment, without any public good.

Mr. Smith of Maryland, from the committee of finance in the senate, presented a report on the same subject, grounded on the same principles, though less minute in its details and reasonings. These reports, proceeding from committees, a majority of whom were the president's friends, and the chairman of each his distinguished supporter, were received with surprise, mingled with respect for their independent



character. Placing in a conspicuous view the incorrectness of the message as relating to the bank, they afforded a striking evidence that military fame, and qualification for civil trust, are different things; and that elevation to office does not necessarily carry along with it talents adapted to the discharge of its duties. The reports were of that clear and convincing character, as entirely to dissipate the cloud brought over the institution by the message, and to restore its stock to its former standing.

*Indians.* The subject of the Indians was one of the most interesting which engaged the attention of congress, involving questions which touched the justice and plighted faith of the nation. The four tribes of the southwest, the Creeks, Cherokees, Chickasaws, and Choctaws, inhabiting portions of territory in the states of Georgia, Alabama, Mississippi, Tennessee, and North Carolina, according to recent calculations, embrace a population of seventy-five thousand; equal in numbers to the white inhabitants in some of the small states. From the first discovery and settlement of this country, they have been treated as a distinct people, possessing certain rights and privileges independent of their white neighbors. Among the most essential of these, were the undisturbed occupancy of their soil, and the enjoyment of their own laws and customs. From the commencement of the government to the close of the late administration, the national policy has been, to respect their rights of territory and self-government. Treaties have been made with them at various times, in which large portions of their lands have been ceded to the United States, the consideration of which has been stipulated sums of money, and a solemn guaranty of the territory retained. Resting on immemorial possession, and these guaranties, the Indians have felt a degree of security in the enjoyment of their rights. By the aid of government and several benevolent private institutions, they have been brought to a considerable degree of civilization, attended with an increased attachment to their possessions. They were rapidly passing from the roving and hunter state to the condition of settled agriculturists. They had determined to part with no more of their lands; and one of the tribes, increasing in numbers, had formed something like a regular system of government. The states took the alarm, and passed acts extending their municipal laws and jurisdiction over the Indian territory within their limits, and abrogating Indian laws and customs. The state of Mississippi placed

them on a footing of their free white inhabitants. The laws of Georgia deprive them of their rights as Indians, without conferring on them the privilege and protection of citizens. Every feature of their enactments is calculated to oppress and banish the Indians. In this condition, the affairs of this people passed into the hands of the present administration, a majority of whom, with their head, were from the states interested in their removal. In answer to the supplications of the Indians to be protected in the enjoyment of their rights, they were told that the government have no power to afford them the solicited protection, and that their only safety is in the abandonment of their possessions, and a retreat to the west, beyond the states and organized territories of the union. This doctrine is repeated to them in several communications, always accompanied with assurances that their great father, the president, has the utmost tenderness and regard for his red children. Agents are sent among them with instructions to use every persuasion and inducement to enroll for emigration, seconded by the laws of Georgia, inflicting the severest penalties on any who should discourage such enrollment. As their last hope, the Indians sent a respectable delegation to the congress of 1829-30, to solicit their protection. This application was enforced by numerous memorials from citizens of the United States, who thought that they saw in this proceeding the most flagrant injustice and violation of the public faith. The business was referred, of course, in both houses, to their respective committees on Indian affairs. Here again the unfortunate Indian found himself in the hands of his enemies. A majority of both committees were from states interested in the Indian lands, and who supported the views of the administration regarding them. Their reports adopted the new system; abrogated the rights of the Indians to their possessions, and self-government, and sustained the state authorities in extending their jurisdiction over them. The bill from the committee of the senate, reported by Mr. White of Tennessee, provided for the purchase of a region beyond the limits of the states, and organized territories, and for the transfer of the Indians thereto, with their free consent, leaving it to the states within whose limits they resided, aided by the agents of the general government, to bring about this consent in such manner as they pleased. The bill appropriated \$500,000 for the commencement of the operation: Mr. Frelinghuysen of New Jersey, proposed an amendment providing for the protection of those who

chose to remain in the enjoyment of their rights and privileges. After a debate, in which the rights of this unfortunate race were ably supported, the amendment was negatived, and the bill passed.

In the course of the discussion in the house of representatives, Mr. Hemphill of Pennsylvania, offered as an amendment, a substitute for the bill, providing that the president, with the consent of the senate, should appoint three commissioners from the states having no direct interest in the removal of the Indians, who should repair to the several tribes in the south, and ascertain from them, whether any or all of them, were willing to exchange their lands for others west of the Mississippi. That they should visit the country proposed to be exchanged, and ascertain its fitness for their support; and that they should make an estimate of the expense of effecting the exchange and removal on equitable terms. The house refused to consider these propositions, and passed the bill as it came from the senate, with some immaterial alterations, by a small majority. The expense, attending this measure, consisting of a fair equivalent for the possessions, and improvements of the Indians east of the Mississippi, their removal to the base of the rocky mountains, a distance of nearly a thousand miles, their support until they can subsist on their new lands, and the maintenance of an adequate military force to protect them against hostilities from their new neighbors, was variously estimated from twenty to fifty millions of dollars. This, however, was considered in the debate, as of minor consequence, compared with the principle involved in the question.

*Proclamation of the governor of Georgia.* On the 3d of June the governor of Georgia issued a proclamation, declaring the laws of the state in force over the Indian territory, and threatening with their penalties, all who should violate their provisions. This proclamation was accompanied by another of the same date, declaring the fee simple to all the Indian lands, and the exclusive property to the gold and silver therein, to be vested in the state of Georgia, and warning all persons, "Indian occupants as well as others from trespassing thereon, and especially from taking any gold or silver from lands included within the territory occupied by the Cherokee Indians." These proceedings leave no doubt, but that every measure, short of the bayonet, will be resorted to, to drive the Indians from their territory. They have, however, the consolation to reflect that

their rights may be brought to a cool, deliberate, and impartial decision, before the supreme court of the United States. Any act of an American citizen, infringing on the property or rights of the Indians, as secured to them by treaty, creates a case for the ultimate decision of that tribunal; and from the apparent determined spirit of the Cherokees, there is little doubt but that such a case will be made. That nation have already engaged Mr. Wirt, late attorney general of the United states, to advocate their cause before the supreme court. To a letter to the executive of Georgia, giving him the information, and containing an elaborate argument in favor of the rights of that nation, the governor replied, that so long as he kept without the jurisdiction of that state, he was safe; implying that if he came within it to advocate the cause of his clients, he might be subject to imprisonment in their penitentiary, by virtue of their late acts relating to the Indians.

*Bill for the collection of duties.* In the house of representatives, Mr. Mallary introduced a bill to provide for the more efficient collection of the revenue, the object of which was to guard against some gross frauds which had been practiced in evading the tariff of 1823. Mr. M'Duffie, who had been defeated in a direct motion to repeal the law, proposed as an amendment to this bill, an abolition of the tariff, apprehending that the most effectual way of guarding against fraud in the collection, was to take off the duties. On this amendment, the protecting system was again brought under consideration, fully discussed, and sustained, by rejecting the amendment. Ayes 62, noes 112. In aid of Mr. M'Duffie, Mr. Cambreleng of New York, from the committee of commerce, introduced a report, condemning in strong terms, the tariff, and embracing the southern doctrines in full, on the protecting system. Mr. Mallary's bill passed; ayes 127, noes 41. The result of these discussions rendered it certain that the protecting system would not be abandoned by this congress; and its friends confidently believed, that before another election a domestic competition will so reduce the price of the protected articles, as to remove all objection to the principle.

*Removals.* In the senate, most of the appointments made during the recess, were withheld for some time, waiting the arrival of two or three absent members. On a motion of Mr. Holmes of Maine, to request of the president information as to the causes of removal, the subject of making use of the appointing power, as an instrument of

rewarding the friends, and punishing the opponents of the existing administration, was discussed in all its bearings, and its odious and disgusting features, placed in a conspicuous point of view. The degraded beings who would accept of office on the terms of surrendering their elective franchise, the advocates of Mr. Holmes' motion considered as wholly unfit for the public service.

The friends of the administration, without admitting that the practice had been carried to the extent claimed by their opponents, avowed the principle, and contended that it was proper for the president to call into service, men who would support his measures. They claimed, that the tenure of office being fixed by law, to be during the pleasure of the president, the senate had no controlling power in relation to removals, and could not compel the re-instatement of an officer, in their opinion improperly removed. That their only legitimate inquiry, on a nomination being presented to them, was the fitness of the candidate for the office. That the executive was an independent and co-ordinate branch of the government, not subject to the control of the others, and amenable only to the people, for the due exercise of the high and important prerogative of appointment and removal.

Mr. Holme's resolution was negatived. No reasons were assigned by the administration or its friends for the removals, leaving the question at issue before the American people, in the exercise of their elective privilege, whether they will sanction the prostitution of this power to the purposes of executive patronage. The precise number of removals did not appear in the course of the debate ; but it was stated, without contradiction, that it exceeded in the course of one year, of the present administration, that of the forty preceding years. Most of the nominations were confirmed by small majorities. The case of the three printers labored under peculiar difficulties. In addition to the objections applicable to other cases, this was so obviously a means of purchasing the press, the great engine of political power in the United States, that a majority of the senate could not be brought to sanction it. Two were rejected, and the other passed by the casting vote of the vice president. One of the rejected ones being afterwards renominated under more favorable auspices, was confirmed. The legislature of the state to which the other belonged, in a moment of excitement, elected him to the senate of the United States,

thereby in appearance at least, sanctioning the new principle of executive patronage.

The case of Major Barney, naval officer of the port of Baltimore, excited much interest. He was the son of Commodore Barney, and fought by the side of his father at the battle of Bladensburg, in August, 1814, in defense of the city of Washington; and distinguished himself in the defense of Baltimore, in the succeeding September. He had enjoyed the office for a considerable period, faithfully performed its duties, and was entirely dependent on its emoluments for the support of a numerous family. His removal was for no other apparent cause, but to make room for Mr. Carr, editor of the Baltimore Republican, a partizan newspaper in the late canvass. It drew from the pen of Mrs. Barney, a daughter of the late judge Chase, a severe and animated address to the president, which did honor to the talents of her sex, and interested them in behalf of the proscribed officers. Mr. Carr's nomination passed the senate by a majority of one vote.

*Retrenchment.* Much was expected from the committee on retrenchment, appointed at the commencement of the session. The public had been made to believe that there were many sinecure offices created or continued by the late administration that ought to be abolished. The committee on this subject, in the latter days of Mr. Adams, reported that there were many offices of this description, but were not able to point them out for want of the co-operation of the cabinet, and expressed a full belief that when they could avail themselves of such co-operation, much might be done to reduce the government expenditures. The present committee, consisting of some of the same members, and with the same views, entered on the subject in earnest, depending on the zealous co-operation of a reforming administration. Unfortunately for the issue of their researches, they found no salaries in the numerous offices attached to the executive departments, to be reduced or dispensed with. Within the halls of congress they found nothing subject to their pruning knife, except a draughtsman, who had been employed by the speaker, in consequence of a resolution of the house several years ago, directing him to procure maps and charts for the use of congress. His services, they thought might be dispensed with, and reported a discontinuance of the office. This occasioned a debate, at intervals, of several weeks; at length it was discovered that such drafts were necessary, and that this was the most economical mode of procuring

them, and the office was continued. Nice calculators estimate the expenses of this debate equal to a ten years salary of the officer. The abortive labors of a reforming administration and two committees of retrenchment, satisfied the people that whoever might govern, they must pay : that a new set of hungry officers were at least as avaricious as the old ; and that when the watchwords **ECONOMY** and **REFORM** had done their office in deceiving the people they would go into disuse.

*Veto.* A bill having passed both houses, authorizing a subscription to the stock of the Maysville turnpike road, in Kentucky, on being presented to the president for his signature, was returned with a document of great length assigning his reasons for not approving it. After stating the great importance of internal improvements, and the president's zeal to promote the object, the document concludes with the opinion that no money is to be drawn from the treasury for that purpose until the public debt is wholly extinguished ; and not then without an amendment of the constitution, authorizing the collection of a surplus revenue, and a distribution of it among the states in proportion to their representation in congress. Two other bills of the same nature were returned without his signature, referring to this document for the reasons. The veto, as it was termed, occasioned a stormy debate in the house of representatives, at the close of the session, which terminated in a rejection of the bill for the want of a constitutional majority. The principle relating to internal improvements was fully discussed, and was supposed to be settled in the congress of 1823-4, by the passage of an act making a liberal provision for surveys. Since that time, several important works have received aid from the public treasury, which must have failed without it. Several are in an unfinished state, commenced under a well grounded expectation of receiving assistance from the government, which must be abandoned if denied the expected aid. The principles adopted by the president on the Maysville road bill are at variance with the act of April, 1824, with General Jackson's own votes on the subject in the senate, and with the opinions of every branch of the government since. They go as well against the improvement of harbors and river navigation, as against roads and canals. The whole system to which the friends of internal improvement have looked for the rapid increase of the wealth and population of the country, and the multiplication of its conveniences and resources, is prostrated. The veto is so con-

sidered by the opponents of the system, and hailed as one of the most important measures of the administration, and as they term it, *capping the climax of the whole*.

*Its effects on the west.* No measure more hostile to the interests of the west could be devised. One of the principal difficulties incident to a new country, is the want of convenient channels of communication. These, on an extensive scale, require the aid of the general government. Individual enterprise or state funds cannot be expected to accomplish them. It is the only mode in which the west can be benefited by the expenditure of the public moneys. Hitherto the great mass of the public treasure has been expended in the Atlantic states, and for objects more immediately beneficial to them. On the plan of internal improvements, the west were beginning to be benefited, and probably in the end would receive their full share. The principles advanced in the Maysville document, carried to their extent, are calculated to retard improvements in the west, half a century.

The notion that the moneys of the United States, destined to objects of internal improvements, are to be distributed to the several states in the ratio of representation, to be expended under the authority of their legislatures, and within their respective limits, is so inconsistent with any rational scheme, that it has been considered rather as a finesse to get rid of the whole subject. Two considerations are sufficient to show the futility of the project. A channel of communication, whether by land or water, to be of any public convenience must be continuous, and in most cases pass through more than one state. It is not to be expected that several states, having different views and interests, will unite in the same operation. The other is, that the states needing the most, will probably draw the least money. Indiana and Illinois, for instance, requiring heavy expenditures to connect the navigation of the lakes with the Mississippi, will draw but a small portion of the funds.

The veto, in unison with the opening message, recommends an appeal to the people for an amendment of the constitution, authorizing internal improvements, and defining and restricting the manner in which the power should be exercised. The slightest observation of the difficulties attending propositions to amend the constitution in times past, is sufficient to show that to be a hopeless project, and the subject may as well be entirely abandoned, as placed upon the event of such a contingency. Two important bills, one making an appropriation for light-houses, and the im-



provement of harbors and river navigation, the other authorizing a subscription in aid of the canal around the falls of the Ohio, were retained by the president until after the adjournment of congress, and thereby prevented from becoming laws ; and another sent back approved by the president, accompanied with a message explanatory of its meaning.

After an interesting session of six months, congress rose on the 31st of May. Few acts of public importance were passed. The most material were, the act relating to the Indians ; Mr. Mallary's bill for the more effectual collection of the revenues ; several acts reducing the duties on tea, coffee, cocoa, salt, and molasses. The session was interesting, not for the number or importance of the laws enacted, but for the discussions which took place, and the principles of the administration which were developed.

*Duel.* A duel having taken place in the course of the winter, between Hunter, a midshipman, and Mr. Miller, a citizen of Philadelphia, in which the latter was slain, and the fact being made known to the navy department, the president, with great promptness, and much to the satisfaction of the public, ordered Hunter, and three other officers concerned with him in the transaction, to be immediately discharged from the service.

*New principles of American policy.* In a government constituted like that of the United States, party distinctions must always be expected. The holders of offices cannot retain them for any long period, against the numerous aspirants, unless they can induce a belief that they are exclusively the friends of the people, and are pursuing a course of measures for their good, which their opponents are endeavoring to counteract ; while they, on the other hand, with equally patriotic and disinterested views, are laboring to establish a different opinion. The contest between Adams and Jackson, and their friends, at first merely personal, has latterly assumed something of a distinctive political character. The administration, claiming to be exclusively the advocates of state rights, maintaining that the general government, in the exercise of its powers, is to be confined within the strict letter of the constitution ;\* that the state legislatures have right to judge when congress exceed their powers, and judging that they do in a given instance, to prevent the execution of such law within their limits.†

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\* Message. † Haynes' speech.

That congress have no power to raise or disburse money for the object of internal improvements,\* and no power to lay duties for the purpose of protecting domestic industry :†

That the general government have no power to protect the Indians in the enjoyment of the rights secured to them by treaty, against the encroachment of the state authorities.‡

It is not intended that every individual of the administration, or of the public who support it, maintain all these principles, but they are the general leading characteristics of the party.

*Jefferson dinner.* Names are of great value in support of doubtful or disputed principles, often perhaps of more real efficacy than argument. That of Thomas Jefferson has been resorted to on the present occasion. By a recurrence to his family records, it was found that the birthday of that deceased patriot, happened on the 13th of April, 1743. Eighty-seven years afterwards, on the recurrence of the same day in 1830, a splendid fete was held at the city of Washington, at which the president, heads of departments, members of congress, and numerous other gentlemen of character and talents, supporters of the administration, attended. The foregoing principles and sentiments were advanced and advocated in the toasts and speeches on this occasion, and the authority of the man, whose birthday they celebrated, brought to their support. The Pennsylvania delegation, the warm advocates of General Jackson, and supporters of the measures of his administration, to the extent which their principles would admit, learning that sentiments were to be advanced contrary to their views of national policy, on the subject of internal improvements, and the protecting system, absented themselves.

*The former system.* The other party, to which the title of national republican is sometimes, though not permanently attached, maintain,

That congress, the executive, and judiciary, in the exercise of their respective functions, must necessarily judge of the extent of their own powers, subject only to the control of the people in the exercise of their elective privilege, precisely on the same principles that a private agent must judge of the extent of his authority, subject to the control of his constituents :

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\* President's veto. † Toasts of 13th April.

‡ Reports of committees on Indian affairs.

That no principle in the American system warrants the agents, appointed to administer the state governments, to exercise a control over that of the United States :

That a fair construction of the constitution authorizes a rational system of internal improvements, and the establishment of a tariff for the protection of domestic industry :

That the general government have power to compel the observance of treaties made under their authority, and protect the Indians in the enjoyment of the privileges heretofore guarantied to them.

To this party their opponents endeavor to fix the title of consolidationists, ascribing to them a plan of concentrating all power in the hands of the general government ; annihilating the state authorities, and reducing them to the condition of mere subordinate corporations.

To the other is ascribed a principle which goes to the destruction of all power in the general government, and to reduce the union to the broken and disjointed condition of the old confederacy.—And

The question is fairly at issue before the American people.

## CONCLUSION.

American system of education compared with European—Common schools—Academies—Colleges—Their number, and annual number of graduates—Motives to exertion—Display of American talent—Annual executive messages and documents—Diplomacy.

*System of American education.* In a government like that of the United States, based upon the virtue and intelligence of the people, the means and the progress of intellectual improvement form an important portion of its history. In monarchies, the leading object has been to keep the people in ignorance, on the ground that the less informed they are, the more easily they may be governed; and of consequence, very little importance has been attached to the general diffusion of knowledge. The governments of Europe being bottomed upon the principle of distinct orders, their schemes of education are calculated to enlarge and perpetuate this distinction. Hence a few richly endowed universities, where a seven years' residence is requisite, and every facility afforded, for the highest literary attainments. The expenses of an education at them are such that none but the rich can enjoy its benefits. Either no provision at all, or a very inadequate one is made for the instruction of the common people. A directly opposite course has been pursued in the United States. The general government wisely leaves the subject of education to the state authorities, merely providing a military school, as a means of defense, to qualify a few youth for military service. The object of the state governments has been to diffuse an adequate portion of knowledge among all their citizens. For this purpose, measures have been taken to afford the children of the poor an opportunity of learning to read and write, and the elementary use of figures, without expense to their parents. Next are academies, at which the citizen of moderate wealth can give his children an education superior to what is attainable at the primary schools, and sufficient for the ordinary purposes of business.

*Colleges.* The highest grade of education, for which provision is made in the United States, is that which is ob-

tainable by a four years residence at one of the colleges. Of these, the whole number in 1829 was 43 averaging twenty three graduates each, or 969 in the whole, yearly.\* The expense of an education at one of these institutions is from one to two thousand dollars, and within the means of a great portion of the citizens. Their object is to qualify the student for professional business. The colleges are but partially endowed, and their funds are inadequate to render a public education what it ought to be. For the perfection of any art, a division of labor is necessary; and in none more so than that of instruction. To render a college institution useful and respectable, a number of professors in the various branches of literature are necessary, as is also an extensive library, museum, and laboratory, which require funds much beyond what is proper to be demanded of the students, and render public patronage essential to the beneficial purposes of education. Where there are rival institutions in the same state, this patronage is divided, and legislative bounty bestowed in so sparing a manner, as in some measure to defeat the object. Two causes have operated to produce a multiplication of colleges. Each state is ambitious of having at least one, and each religious denomination is anxious to have as many as may be, under its peculiar control. Though institutions for mere literary purposes ought not to partake of a sectarian character, yet with the freedom of opinion, and zeal for proselytism existing in the United States, this disposition will always be found, and will have the effect to multiply colleges.

*Motives to exertion.* After all the disadvantages under which the American system labors, for high literary attainments, the genius and talents of the country have appeared in a manner that will bear a comparison with those of older nations. Many considerations may be put in the opposite scale. The facility with which a public education is acquired has called forth talents of the first order, which otherwise would have been unnoticed, in the walks of private life. In a country where there is no distinction of orders, and where every one must rise by his own merits, the motives to exertion are all powerful. The field, likewise, is extensive and varied. First, in the primary assemblies of the people, where subjects of deep interest to these commu-

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\* Missionary Herald, July, 1830.

nities are to be discussed ; next, in the state legislatures, where all municipal laws are to be passed, and subjects of great concern to the states come under consideration ; and lastly, in the halls of congress ; no field can be found equal to the latter, in the inducements it affords to call talent into exercise. A thousand newspapers are ready to convey the speeches of the distinguished orator to all parts of the union. He speaks in the presence of the collected wisdom of the nation. His merits are thus made known to an intelligent community, and by them estimated, and placed to his credit. On a character thus acquired, he is to take his rank in society ; and if, by any accident, he gets into a situation to which his talents are not adapted, the people see it, and he becomes disgraced. The extraordinary latitude of debate allowed in congress, by general consent, is highly favorable to the display of talent. Many of the speeches delivered in the halls of congress, will not suffer by a comparison with the parliamentary debates of any modern period, and want nothing but the sanction of age, to place them in the same rank with the most distinguished ones of antiquity.

*Instances of American talent.* Considered as an effort of the human mind, the production of the American system of government, is unequalled, and elevates its framers above the law-givers of ancient or modern times. Turning from European systems, founded in violence or corruption, and taking into view the wants, feelings, and wishes of their country, they struck out a new plan, adapted to its condition.

*Annual messages and documents.* That clause in the constitution, which requires of the president to give "to congress information of the state of the Union," has produced a series of messages, at the opening of the sessions, which, as well for correctness of style, as for importance of matter, are unequalled in the communications between the executive and legislative branches of any government. While European monarchs content themselves with a few general, commonplace remarks, made in the style of master to servant, to their legislative bodies, the American presidents go into an interesting detail of all the important affairs of the nation. The reports of the executive departments, accompanying the messages, as business papers, containing a minute statement of the affairs of their respective bureaus, form a striking contrast with the short and unsatisfactory statements of the same nature in other governments.

*Diplomacy.* In diplomacy, it might be expected, that a knowledge of the arts and intrigues of foreign courts, and of the means by which negotiations are effected, which European ministers are enabled to bring into the field, would be an over-match for the simplicity of republicanism. In these contests, more than in any other, the genius and talents of the country are displayed. The secretaries who have the direction of foreign affairs, and the ministers selected to conduct negotiations, under their orders, are usually designated by the executive, upon the principle of calling into action the best talents of the nation. From the days of Franklin's first appearance at the court of France, in Quaker style, with a cargo of tobacco for an outfit, to the present period, America has nothing to be ashamed of, in the management of her diplomatic concerns. Her ministers, though met by the most astute negotiators in Europe, have maintained a high standing. The European war, commencing nearly at the same time with the government under the constitution, gave rise to many interesting questions of national law. A succession of negotiators, on the part of the United States, have defended their rights with distinguished ability. In the diplomatic controversy with Great Britain, which terminated in the late war, the American state papers evidently bear marks of superior talent. A dispute of twenty years length, with Spain, was managed by a succession of diplomatists, able, at every point, to meet their opponents. The clearness and energy with which the existing claims against France have been enforced and reiterated by Mr. Gallatin, though without success, have done high honor to the country. Though the negotiator was not a native citizen, his talents are none the less the property of the nation who has adopted him. On a fair comparison, the state papers which have emanated from the various negotiations in which the United States have been engaged, will give the palm to their ministers.

THE END.

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